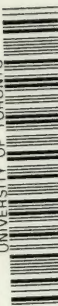
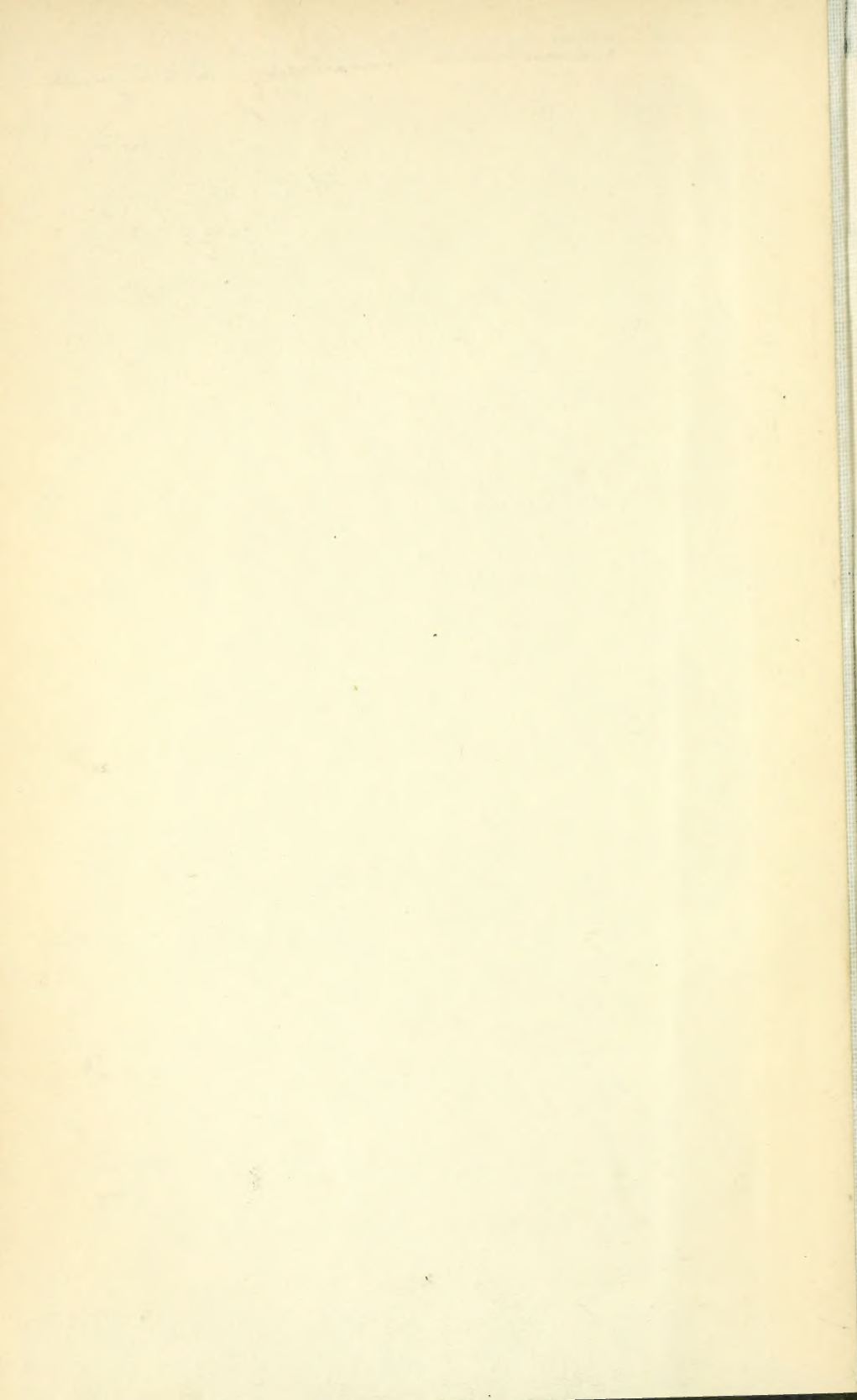


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## TABLE OF CONTENTS

Nos.	PAGES
1-2. Financial History of Ohio. By Ernest L. Bogart, Ph.D.....	1-358
3. Sources of Municipal Revenues in Illinois. By Lent D. Upson, Ph.D.....	359-486
4. Friedrich Gentz: an Opponent of the French Revolution and Napoleon. By Paul F. Reiff, Ph.D.....	487-645





UNIVERSITY OF ILLINOIS STUDIES  
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# Financial History of Ohio

BY

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URBANA-CHAMPAIGN, ILLINOIS  
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## PREFACE

This work was begun some years ago at Oberlin College; laid aside for more pressing duties, it has since been carried to completion, at odd intervals and for the most part at a distance from Ohio. For some of the shortcomings this may be held responsible. It is based almost exclusively upon official sources; these had remained practically unused in other publications relating to the state, and upon the latter therefore little reliance has been placed. In the present monograph two chapters, dealing respectively with Internal Improvements and Local Finance, were omitted because of limitations of space; but it is hoped they may be published at some future time. A "History of the State Debt of Ohio" has already appeared in the *Journal of Political Economy*, April, May, June, 1911. Thanks are due the editor of the *American Economic Review* for permission to reprint part of an article entitled "Recent Economic Reforms in Ohio", which appeared in September, 1911; and to the editor of the *American Historical Review*, for permission to reprint a part of the article "Taxation of the Second Bank of the United States by Ohio", which appeared in January, 1912.

I desire publicly to record my obligations to Mr. A. S. Root, the Librarian of Oberlin College, to Mr. C. B. Galbreath, the former State Librarian of Ohio, and to the Librarian of the New Jersey State Library; to Mr. E. M. Fullington, Auditor of State of Ohio; to Mr. E. O. Randall, President of the Ohio Archaeological and Historical Society; and to Mr. A. R. Foote, President of the Ohio State Chamber of Commerce, as well as to numerous other persons, who have courteously aided me with information

or access to publications. Acknowledgements are also due Professor H. B. Gardner for suggestions as to the arrangement of the material in the tables on pages 124-141, and to the Carnegie Institute for assistance in gathering material for this study.

ERNEST LUDLOW BOGART.

University of Illinois,  
February 24, 1912.

# TABLE OF CONTENTS

	Page
INTRODUCTION: TERRITORIAL HISTORY AND FINANCE	
Settlement of Ohio.....	9
Financial Organization and Taxation.....	10
Economic Conditions.....	16

## PART I. FINANCIAL LEGISLATION AND ADMINISTRATION

### CHAPTER I.

FINANCIAL AND ECONOMIC HISTORY OF OHIO	
The pioneer state.....	19
Expansion: schools, canals, and taxation.....	30
Panic, banking problems, and economy.....	39
The Constitution, currency, and corruption.....	47
Material development: agriculture and transportation.....	51
Slavery and Civil War.....	56
Labor, immigration, and industry.....	59

### CHAPTER II.

RECEIPTS AND EXPENDITURE: A STUDY OF THE BUDGET	
Early period, 1803-1824.....	68
Period of internal improvements, 1825-1845.....	77
Period of extravagance and defalcation, 1845-1860.....	82
Civil War period.....	91
Deficits and transfers.....	95
Enforced economy.....	99
Increased appropriations and insufficient revenue.....	103
Enlarged revenue and increased expenditure for public institutions	106
Conclusion .....	112
Appendices: Table I, State collections and disbursements.....	118
Table II, General revenue fund.....	124
Table III, Expenditures.....	134

### CHAPTER III.

FINANCIAL ADMINISTRATION AND BUDGETARY PRACTICE	
I. <i>Treasury Administration and Accountability</i> .....	145
The canal accounts.....	148
The reforms of 1856 and 1857.....	154
The defalcation of 1857.....	161
Establishment of the independent treasury system.....	165

The present organization and administration of the treasury department .....	172
II. <i>Budgetary Legislation and Practice</i> .....	174
The Constitution of 1802.....	174
The Constitution of 1851.....	176
Present budgetary practice.....	178

## PART II. THE HISTORY OF TAXATION IN OHIO

### CHAPTER IV.

THE GENERAL PROPERTY TAX	Page
I. <i>The Land Tax, 1803-1825</i> .....	181
Assessment and collection of taxes.....	192
Exemptions.....	194
Sale and redemption of land.....	195
Criticisms of the existing tax system.....	200
II. <i>The General Property Tax, 1825-1851</i> .....	202
Revaluations.....	208
Sale and redemption of delinquent lands.....	212
The Kelley law, 1846.....	214
III. <i>The General Property Tax Under the Constitution of 1851</i> .....	221
The constitutional provisions.....	221
The act of 1852.....	223
The act of 1859.....	229
The Civil War period.....	232
The act of 1878.....	237
The tax inquisitor law.....	240
The tax commission of 1893.....	242
Abolition of the general property tax for state purposes.....	246
The tax commission of 1906.....	248
Recent reforms.....	250

### CHAPTER V.

HISTORY AND TAXATION OF BANKS AND BANKING	Page
History and taxation of banks to 1819.....	257
The attempt to tax the Bank of the United States.....	260
Struggle over note issues, 1819-1854.....	269
Regulation of the banks, 1839-1850.....	276
Bank taxation.....	280
Struggle with the banks over taxation.....	283
Crises of 1854 and 1857, and condition of the banks.....	286
Renewed struggle over taxation.....	289
Compromise.....	293
Organization of national banks and their taxation.....	296



## CHAPTER VI.

### HISTORY AND TAXATION OF RAILROADS

Early railroad building.....	302
State and local aid.....	305
Taxation of railroads, to 1851.....	311
Regulation and taxation, 1850-1866.....	315
Construction and taxation after the Civil War.....	320
Excise taxation, 1893 to date.....	323

## CHAPTER VII.

### BUSINESS AND MISCELLANEOUS TAXES

	Page
Lotteries.....	330
Banks.....	330
Sales at auction.....	331
Income tax on lawyers and physicians.....	332
Tax on brokers.....	333
Tax on merchants and manufacturers.....	334
Insurance companies.....	336
Transportation companies.....	339
The taxation of telegraph, telephone, and express companies.....	340
Public service corporations.....	342
Foreign and domestic corporations.....	344
Liquor taxes.....	345
Tax on cigarets.....	348
Inheritance taxes.....	348
Miscellaneous business taxes and licenses.....	352
Conclusion.....	352

INDEX .....	355
-------------	-----

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## INTRODUCTION

### TERRITORIAL HISTORY AND FINANCE.

#### SETTLEMENT OF OHIO.

The permanent occupation and settlement of Ohio did not begin until the passage of the Ordinance of 1787 gave assurance of a settled form of government for that territory. The first band of immigrants, comprising the van of the Ohio company, arrived on April 7, 1788, at the mouth of the Muskingum River, where they formed a settlement which they called Marietta.<sup>1</sup> Soon after the adoption of the Ordinance Congress had organized the first territorial government, and appointed Arthur St. Clair governor and commander in chief; three judges were also appointed. In July, 1788, Governor St. Clair arrived in Ohio and formally established the first form of civil government in the territory. Under this the people had no concern in the actual business of government. The governor and judges were appointed first by Congress, and after the adoption of the federal constitution by the president. The whole legislative power was vested in these officials, but it was limited only to the adoption of such laws of the original states as might be suited to the needs of the new territory. In fact, all power, legislative, executive, and judicial, was concentrated in the governor and judges, and in its exercise they were responsible only to the distant federal head.<sup>2</sup>

The first acts of the governor were the erection of Washington county, comprising the eastern half of the present state of Ohio, the establishment of a system of courts, and the organization of the militia. In 1790 he organized a second county, Hamilton, in the western half of the present state, and removed the seat of government to Cincinnati.<sup>3</sup> St. Clair and the judges also selected laws for the use of the territory, and enacted some original

<sup>1</sup>H. Schmucker, *Ohio Statistics* (1876), p. 15.

<sup>2</sup>Chase, *Statutes of Ohio* (Cincinnati, 1833), I, 18.

<sup>3</sup>E. O. Randall, in *Ohio Arch. and Hist. Soc. Pub.*, N. 419.

ones, which was contrary to the Ordinance. Most of the legislation concerned the organization of government, but a few were financial in their character and may be briefly noted. The expenses of the government were defrayed in part by the United States; but for the most part were drawn from the pockets of the people in the shape of fees.<sup>4</sup> Consequently taxation played but a small role in early territorial finance.

#### FINANCIAL ORGANIZATION AND TAXATION

On August 1, 1792, a number of laws were promulgated on this subject. One of the first created the offices of treasurer-general of the territory and of county treasurers, enumerated their duties, fixed their compensation at 5 per cent. of all the money that passed through their hands, and required \$1500 bonds.<sup>5</sup> As the territorial expenses were met either by the federal government or by special fees, the finances were as yet almost entirely local. The expenses of each county were to be estimated by the court of quarter sessions, and the estimate laid before the governor.<sup>6</sup> The amounts needed were to be apportioned among the townships by commissioners appointed annually by the judges of the courts of common pleas. The commissioners were to list male persons over eighteen, stocks of cattle, and land values annually, and all other property that might affect the apportionment. Assessors were also appointed annually by the judges, who were to

assess the individuals of their town . . . according to the best of their judgment in just proportion to their wealth in the county and ability to pay either in money or specific articles (§ 4).

The assessments could be paid either in money or in specific articles agreeable to the public use. Duplicates of the tax list were to be made by the prothonotary of the court of common pleas, and the taxes were collected by the sheriff. To compel the payment of taxes provision was

<sup>4</sup>Chase, *op. cit.*, p. 18.

<sup>5</sup>*Territorial Laws* of 1792, ch. 25.

<sup>6</sup>*T. L.*, ch. 26.

made for the arrest of delinquents, and if necessary the seizure and auction of their property. Other acts had to do for the most part with the regulation of fees.<sup>7</sup> The first financial act enacted at this time had established an annual fee of \$16 for a license to merchants, traders, and tavernkeepers, of which \$15 was to go to the county and \$1 as a fee to the commissioners appointed for the purpose of licensing them.<sup>8</sup> Various other fees were established, but they belong to local finance.

In 1795 the governor and judges undertook to revise the territorial laws, and to establish a complete system of statutory jurisprudence, by adoption from the laws of the original states, in strict conformity to the provisions of the ordinance.<sup>9</sup> Most of the laws adopted at this time were taken from the statutes of Pennsylvania. A comprehensive act "for raising county rates and levies" was passed,<sup>10</sup> but no distinctively territorial tax was imposed as yet. From this time to the organization of the territorial legislation in 1799, there were no further acts of legislation, except ten laws adopted by the secretary and judges in 1798.<sup>11</sup> One of these, however, was for our purposes a most important one, as it levied for the first time a territorial tax on land.<sup>12</sup> It provided for commissioners or listers in each county, to be appointed by the judges of the court of quarter sessions. They were to take a written list from each land holder of all the lands he claimed within the territory, specifying the quantity and quality. The land was then to be divided into three classes, according to quality;<sup>13</sup> and the first rate land should be taxed at 85

<sup>7</sup>Such were *T. L.*, ch. 36, 48, 81.

<sup>8</sup>*T. L.*, ch. 24. This repealed ch. 51, which had allowed \$12 to the county and \$4 to the governor. By act of Dec. 6, 1800, no fees were required. *T. L.*, ch. 122.

<sup>9</sup>Chase, I, 26.

<sup>10</sup>*T. L.*, ch. 53.

<sup>11</sup>Chase, *op. cit.*, p. 27.

<sup>12</sup>Act of May 1, 1798. *T. L.*, ch. 90.

<sup>13</sup>The "land shall be divided into three classes according to their quality . . . taking into view the surface of the earth as well as the quality of the soil".



cents, the second rate at 60 cents, and the third rate at 25 cents per 100 acres.<sup>14</sup> Taxes were paid to the territorial auditor, or to the sheriff or collector of the proper county. Clerks of the peace in each county had to list the lands of non-residents. The sheriff of each county was made the collector of taxes, and must collect them after August 1 of each year. If the taxes were not paid, the collector was directed to sell at public auction so much of the land as would pay the tax; arrears of taxes bore 10 per cent. interest.

In the meantime the population of the territory continued to increase and to spread out. Before the end of the year 1798, the northwestern territory contained a population of 5000 free male inhabitants of full age, and eight organized counties. The people were now entitled under the ordinance to a change in the form of government. That instrument provided, that upon giving proof to the government that there were 5000 free males of full age in the territory, the people should be authorized to elect representatives to a territorial legislature. This privilege was, however, confined to freeholders, in fee simple, of 50 acres of land within the district. No others were entitled to vote, and only freeholders in fee simple of 200 acres within the district were eligible as representatives. When chosen, the house of representatives was to assemble in convention and nominate ten freeholders of 500 acres, of whom the president of the United States was to appoint five, who should constitute the legislative council. Representatives were to serve two, and councilmen five years. The two

<sup>14</sup>The rates were frequently changed, according to the needs of the territorial government, as shown in the following table. The act of May 1, 1798, which was adopted from the statutes of Kentucky, laid the tax on every "100 acres of unimproved, uncleared land"; those of Dec. 19, 1799, and Dec. 9, 1800, simply taxed "100 acres of land".

YEAR.	FIRST CLASS.	SECOND CLASS.	THIRD CLASS.
1798.....	\$ .85	\$ .60	\$ .25
1799.....	.30	.20	.10
1800.....	.85	.60	.25
1801.....	.55	.35	.17

houses were to constitute a territorial legislature, with power to make any laws not repugnant to the national constitution or to the ordinance of 1787. The judges were thenceforth to be confined to purely judicial functions. The governor was to retain his appointing power, his general executive authority, and to have an absolute negative upon all legislative acts. The power of the governor under the new order was in fact more absolute than under the old.<sup>15</sup>

On September 24, 1799, the first territorial legislature met for what proved to be a lengthy session, during which the finances of the territory were more carefully organized. To meet territorial expenditures the legislature created two funds—a contingent and a general fund; the latter was composed of specific appropriations, and the limit of all expenditures was placed for the year at \$5000; the contingent fund was largely though not wholly left to the order of the governor.<sup>16</sup> The office of territorial auditor of public accounts was created, in addition to that of treasurer.<sup>17</sup> He was given the duty of receiving and liquidating authorized bills, subject, however, to appeal. The salary of the treasurer was fixed at \$400 and that of the auditor at \$450. Some of the provisions of the act are especially interesting for the light they throw on the crude conditions: auditor's certificates could be received in payment of taxes; the auditor and treasurer were fined \$1000 if they speculated in audited certificates, seeming to indicate depreciation and fluctuation; forgery of auditor's certificates was to be punished with death. A regular system of taxation was also established. The tax for territorial purposes was levied upon lands; that for county purposes upon persons, personal property, and houses and

<sup>15</sup>Chase, *op. cit.*, p. 27.

<sup>16</sup>Chase, I, 285. In 1800, only \$3000 was allowed for the contingent fund, but the general fund was not limited. Chase, I, 309. In 1802 the contingent fund was made \$12,000, but was withdrawn from the order of the governor, being put under the entire control of the auditor of public accounts; no limit was placed on the other fund. Chase, I, 340.

<sup>17</sup>Act of Dec. 2, 1799. *T. L.*, ch. 99. Chase, I, 231.

lots. During this session a bill authorizing a lottery for a public purpose, passed by the council, was rejected by the representatives.<sup>18</sup> The legislature also fixed their own pay at \$2.00 a day, and \$3.00 mileage for every fifteen miles traveled.<sup>19</sup>

On December 19 the governor terminated the first session of the legislature. He vetoed eleven acts, which were disapproved for various reasons, but mainly because the governor claimed that the power exercised in enacting them was vested by the Ordinance, not in the legislature, but in himself. This free exercise of the veto power excited much dissatisfaction among the people, which was strengthened by the controversy with the legislature as to their respective powers. As a consequence the veto power was denied the governor when the first state constitution was adopted in 1803. In other ways too the conflict between Governor St. Clair, who was an extreme Federalist, and the adherents of the Republican party influenced to a noticeable degree the character of the laws. The democratic environment of a pioneer settlement made the maintenance of an aristocratic or paternalistic form of government impossible, and the desire for political independence and home rule culminated in the demand for statehood. During the territorial period, Ohio constituted a constant item of expense to the federal government, in connection with the land sales, the salaries of civil officials, and the pacification of the Indians.<sup>20</sup> In territorial finance and government there was a steady pressure towards decentralization, due both to difficulty of communication and wide dispersion of a sparse population over a large territory, and to the consequent greater economy of local administration of affairs.

Money was very scarce in the territory and revenue for territorial purposes was raised with difficulty, so that great economy was necessary to meet even the modest

<sup>18</sup>Chase, I, 29.

<sup>19</sup>*T. L.*, ch. 114.

<sup>20</sup>Winsor, *Westward Movement*, p. 504.

necessary expenses. The revenue was raised chiefly by a tax on uncultivated lands, which were in great part the property of non-residents. This called forth a protest from Governor St. Clair, with a recommendation that new sources of revenue be sought, as there was nothing in the treasury and the revenue had not been as productive as contemplated.<sup>21</sup> The House answered with a resolution defending the existing methods and expressing a hope that the present revenues would discharge all the demands against the territorial treasury.<sup>22</sup> An acrimonious correspondence now followed, in which the governor estimated that there would be a deficit at the end of the year of \$5,419, which would have to be met by the "wretched expedient" of a new emission of bills of credit.<sup>23</sup> On the other hand, the joint committee appointed to examine the books and accounts of the territorial treasurer and of the auditor of public accounts, headed by Thomas Worthington, a political opponent of St. Clair, reported that there would be a balance of \$8,978 in the treasury to meet current expenditures, which would be ample for all needs.<sup>24</sup> The amount of assessed taxes for the year 1800 was \$19,241 and for 1801 was \$29,114, but considerable deductions had to be made from these sums on account of double entries of land, collection fees, etc. Audited certificates in circulation, not yet redeemed, were estimated at \$1649.

During the whole of the territorial period there was a struggle to make ends meet, but it was accomplished, and when Ohio became a state the finances and the revenue laws were in a fairly satisfactory condition.

It will, no doubt [wrote the governor to the legislature<sup>25</sup>] afford you much consolation on receiving from the proper officers, a statement of our finances, in discovering that the present revenue, if wholly reserved for state purposes, is adequate to all the necessary exigencies of government; and that by a true economy, devoid of parsimony, the public faith and credit may be maintained.

<sup>21</sup>Gov. address, Nov. 26, 1801. *House Journal*, 1801, p. 14.

<sup>22</sup>*Ho. J.*, 1801, p. 30.

<sup>23</sup>*Ibid.*, p. 34.

<sup>24</sup>*Ibid.*, pp. 52-54.

<sup>25</sup>Gov. mess., *Senate Journal*, 1803, p. 10.



The outstanding auditor's certificates were estimated at \$1758, the taxes for the year 1802 at \$26,098, and the available balance for current expenses at \$13,952.<sup>26</sup> The examining committee, appointed for that purpose, reported that the books of the auditor and treasurer were kept in good order and with accuracy, and that no monies had been expended without legal authority.

#### ECONOMIC CONDITIONS.

The economic environment and the early hardships of the pioneer settlers in Ohio will perhaps be made clearest by citing a few facts as to the industrial and financial conditions during the territorial period.<sup>27</sup> The first colonists came by water, for there were no roads through the forests. Indian trails were followed when land travel was necessary, and these were gradually widened into bridle paths. Later, with the growth of population, roads were cut through between the five or six centers of settlement, but judged by present standards they were miserable, hub-deep in mud, dangerous to passengers, and costly for transportation of freight. On the rivers, which were the favorite means of communication, where possible packet systems grew up, the first of which was in operation as early as January 11, 1799.<sup>28</sup> Numerous boats of various descriptions were built for the freight business on the Ohio River and the tributary streams.

Money was not to be had in the earlier days of the territory,<sup>29</sup> and exchange was conducted by barter or the use of some primitive substitute for money. Such industries as existed were mainly local in character, or were carried on within the family. The tax laws provided that money or "articles agreeable to the public use" might be

<sup>26</sup>Rep. of joint com. to examine the accounts of the auditor and treasurer. *Sen. J.*, 1803, pp. 25-26.

<sup>27</sup>Most of the facts brought together in the next three or four paragraphs were collected by former student of mine, Mr. E. C. Dye, of Portland, Ore.

<sup>28</sup>Cist, *Cincinnati in 1851* (ed. 1859), p. 156.

<sup>29</sup>John Sherman, in *Ohio Centennial Celebration*, p. 248.

paid for taxes.<sup>30</sup> The act of 1792, in providing for fees, states that since a dollar piece varied in its real value in the several counties, the fee taker could for every one cent of the act demand one quart of Indian corn. Auditor's certificates circulated as money, and in 1795 the death penalty was provided for the forgery of auditors' certificates and other public securities.<sup>31</sup> After the treaty of Greenville comparative security and prosperity were brought about by the removal of fears of Indian attack, and the rapid influx of a population of greater means brought in more money.

The domestic industries provided leather and home-spun clothes. Log houses and rough furniture were constructed with the use of ax, auger, hammer, and saw.<sup>32</sup> Wheat, corn, whisky, maple sugar, eggs, butter, hogs, sheep, and fresh game formed the staples of their food supply. There was one commodity which home industry could not supply, however; one locality along the Scioto River for a time had almost a monopoly of its production. This was salt. The demand was great, and people traveled long distances to get it, and paid enormous prices.<sup>33</sup> Salt at the Scioto salt works sold for \$3 to \$4 per bushel. After being transported a hundred miles the same amount commanded \$6 to \$7. Salt in Trumbull county, in the north-eastern part of the state, sold for \$20 a barrel, and one man in Cleveland paid \$40 for a barrel and then spent four days in cutting out a road through the dense forest in order to haul his purchase to his objective point about twenty-five miles distant. One bushel of salt, worth \$3.20 at the salt springs, would purchase on the spot ten bushels of wheat at 32c, which was an exceptionally high price for the latter, or three deer at \$1.00 apiece.<sup>34</sup> But the price of iron completely eclipsed all this, for the mere carriage of a ton from Baltimore to Ohio cost \$200, or ten cents a

<sup>30</sup>E.g. Act of 1792, Chase, *Ohio Statutes*, I, 118.

<sup>31</sup>Act of 1795. Chase, I, 198.

<sup>32</sup>Curtis, in *Ohio Arch. and Hist. Soc. Publ.*, X, 243.

<sup>33</sup>Atwater, *History of Ohio*, p. 11.

<sup>34</sup>John Sherman in *O. C. C.*, p. 248.



pound.<sup>35</sup> Every community had its mill, built beside a stream, to grind grist and flour. The first mill in Ohio seems to have been the Wolf Creek mill, built in 1789, about a mile above its junction with the Muskingum River.<sup>36</sup> Saw mills were also erected, and later fulling mills for textiles. At the end of this period grazing became quite an industry, and considerable profit was made through the herds of cattle and horses, driven over the mountains to the Atlantic coast; the first such drive was made in 1805.

Wages in Ohio during the territorial period were not high. A school teacher who made \$10 a month was considered well-paid;<sup>37</sup> the soldiers in St. Clair's army got \$2.10 for the same period.<sup>38</sup> Constables received 75 cents and grand jurors 60 cents a day; a coroner was allowed \$3.00 for every dead body he viewed and his jurors 50 cents apiece.<sup>39</sup> Surveyors, as skilled laborers in great demand, obtained the highest wages of all, and received amounts ranging from \$3.50 a day for the compass or head man down to \$1.25 for his flag man. The auditors of their accounts were paid \$2.00 to \$2.50 per day. The auditor of the Northwest Territory received \$450 a year, and the treasurer \$400.<sup>40</sup> The general system of fees prevalent in the territory was likewise proportionately low; for instance, the justice of peace got 5 cents a person for administering oaths. The county commissioners of assessment were allowed 60 cents a day and mileage of 2 cents a mile.<sup>41</sup>

<sup>35</sup> Atwater, *op. cit.*, p. 11.

<sup>36</sup> See my *Economic History of the United States*, p. 134.

<sup>37</sup> *Mag. of Amer. Hist.*, XVI, 5.

<sup>38</sup> Roosevelt, *Winning of the West*, IV, 30.

<sup>39</sup> Chase, *Ohio Statutes*, I, 133.

<sup>40</sup> *Ibid.*, I, 154.

<sup>41</sup> *Terr. Laws*, ch. 36. Aug. 1, 1792.

# PART I FINANCIAL LEGISLATION AND ADMINISTRATION

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## CHAPTER I

### ECONOMIC AND FINANCIAL HISTORY OF OHIO.

#### THE PIONEER STATE.

Ohio was admitted to the Union in 1803,<sup>1</sup> and the first session of the first legislature of the newly formed state met at Chillicothe on March 1, 1803. The governor and Senate repaired to the chamber of the House of Representatives, where the governor delivered his opening message in person; in 1806-7 he sent his written message, which was read, perhaps in imitation of the practice established by President Jefferson. In his message for 1803 the governor reported that "the present revenue, if wholly reserved for state purposes, is adequate to all the necessary exigencies of government."<sup>2</sup> One of the first tasks of the legislators was to fix the pay for their own services, which they did by conscientiously reducing the rate to two-thirds of what it had been for the territorial legislature, or the modest sum of \$2.00 a day with a mileage allowance of \$2.00 for every 25 miles traveled in reaching the state

<sup>1</sup>By act of April 30, 1802, Congress directed the creation of the state of Ohio. Ohio adopted a constitution, and formed the state, on Nov. 29, 1802. Congress recognized the state as a member of the Union, by act of Feb. 19, 1803.

<sup>2</sup>The first governor's message after Ohio became a state may be found in *Sen. J.*, 1803, p. 10, or in *Ho. J.*, p. 11.

capital.<sup>3</sup> The tax laws of the territory were slightly modified and continued in force. An auditor and a treasurer of state were provided for by continuing the territorial officials with the same functions.<sup>4</sup> In addition to his other duties, the latter officer was charged with the receipt of three per cent. of the proceeds from the sale of the public lands, to be paid by the United States. Laws were passed for leasing the school lands and the salt reservations.<sup>5</sup>

As might be expected in a pioneer state such as Ohio then was, all the legislators were engaged in agricultural pursuits. To them no object was more important, and few absorbed more of their time and attention than road legislation. Indeed one of the terms upon which Ohio entered the Union was that five per cent of the proceeds from the sale of public lands within the state should be set aside for the building of roads. It was later agreed that three per cent. should be granted to the state for the construction of common highways in the various counties, and the other two per cent. be used in the building of a national road from tide water to Ohio. Most of the early roads in the state were built over the old portage ways between waterways,<sup>6</sup> thus showing the importance of the portage in the pioneer period of development. By June, 1805, some 1030 miles of road had been built out of

<sup>3</sup>The pay of members of the general assembly for the first quarter of the nineteenth century was fixed as follows:

Dec. 19, 1799.....	\$3.00 a day and \$3.00 mileage for 15 mi. travel
Jan. 1, 1802.....	3.00 a day and 3.00 mileage for 20 mi. travel
March 24, 1803.....	2.00 a day and 2.00 mileage for 25 mi. travel
Feb. 16, 1810.....	2.00 a day and 2.00 mileage for 25 mi. travel
Feb. 18, 1816.....	3.00 a day and 3.00 mileage for 25 mi. travel
Dec. 19, 1821.....	2.00 a day and 2.00 mileage for 25 mi. travel
Dec. 29, 1823.....	3.00 a day and 3.00 mileage for 25 mi. travel

The act of Feb. 18, 1816, also provided for raising other salaries, which were fixed as follows: judges of supreme court, \$1200; governor, \$1200; secretary of state, \$800; president of court of common pleas, \$1000; auditor, \$1200; treasurer, \$700.

<sup>4</sup>Act of April 15, 1803.

<sup>5</sup>Chase, I, 36.

<sup>6</sup>E.g. between Cayuhoga and Tuscarora rivers. *Sen. J.* 1803, p. 63.

the proceeds of the 3 per cent. fund.<sup>7</sup> A great deal of time was taken up in the discussion of roads and the best use of the 3 per cent. fund, and many local and temporary acts were passed. Yielding to the pressure from every quarter, the legislature dissipated the fund by distributing it among the counties, no one of which secured enough to effect any large or permanent improvements. That good roads were necessary if trade were to be developed and Ohio dispose of her surplus products in the eastern markets was evident. A great stimulus was given to the movement by the first successful attempt to drive cattle from Ohio across the Alleghenies, which was made in 1805. Of the 68 head, 22 were disposed of at Morefield, Va., and the remainder were driven to Baltimore, where they were sold at a net profit of \$31.77 per head.<sup>8</sup>

In December, 1803, the second general assembly met. During this session the revenue system of the state was simplified and improved. The main reliance for revenue continued to be upon lands. The burden of the land tax was borne in great part by non-residents, who had no property of any other kind in the state,<sup>9</sup> but it had the desirable result of hastening the transfer of lands so held into the hands of resident proprietors. Two-thirds of the tax were paid into the state treasury, and one-third into the several county treasuries. County commissioners and township trustees were also authorized to assess taxes for certain purposes within their respective limits. To encourage immigration a law was passed at this session to enable aliens to acquire and hold land within the state, and granting them the same proprietary rights as native citizens.

Burr's reputed effort to lead an insurrection in the western states against the federal government aroused considerable excitement in Ohio, but

<sup>7</sup>*Sen. J.* 1805-6, p. 25.

<sup>8</sup>L. N. Bonham, *American Live Stock*, in Depew: *One Hundred Years of American Commerce*, I, 225.

<sup>9</sup>Chase, I, 37.

except this event [wrote Chase, the legal historian of early Ohio<sup>10</sup>] the period now under review was marked by few striking or important incidents. The attention of the general assembly was chiefly bestowed on local legislation. The erection of new counties, and the incorporation of towns, banks, manufacturing companies, academies, and religious societies, indicated the rapid progress of the state in population, wealth, and character.

Some of the early legislation is of great interest, as showing the minute regulation of industry that was thought necessary at this time, even in a primitive community. An act of January 12, 1805, fixed the rates of toll for grinding: for wheat, rye, or other grain, the charge was one-tenth; for corn, one-eighth, etc.<sup>11</sup> By act of February 20, 1805, provision was made for the inspection of certain articles of exportation.<sup>12</sup> This act provided for the appointment of inspectors in each county "to inspect or pack all wheat or rye flour, Indian corn or buckwheat meal, biscuit, butter, hogs' lard, pork or beef." The inspectors were to be paid by fees, as, for example, three cents for each barrel of flour; and articles were to be branded by them after packing or inspecting, if satisfactory. The law even described and prescribed the kind of barrel, firkin, etc. This is interesting not only as an illustration of the persistence of mercantilist notions, but also as showing the existence and character of an export trade from Ohio in agricultural products. Probably the difficulty of enforcing such an act under the conditions existing at that time made it a dead letter.

In his message of 1809 the governor<sup>13</sup> congratulated the legislature upon the uninterrupted state of prosperity which the state had thus far enjoyed from the beginning. But an early act of the legislature thus felicitated seemed to indicate some degree of financial stringency and lack of sufficient money for the use of the community. The

<sup>10</sup>*Statutes of Ohio*, I, 38.

<sup>11</sup>*O. L.*, 1805, ch. 20.

<sup>12</sup>*O. L.*, 1805, ch. 10, *Cf.* also act of Jan. 9, 1802, in Chase, *Ohio Stat.*, I, ch. 151.

<sup>13</sup>Gov. Mess. 1809, p. 43.



auditor was required to issue bills for even sums of \$20, \$10, and \$5 in payment of accounts due individuals by the state; for any sum less than \$5, a bill for the "precise balance of account" was to be drawn.<sup>14</sup> These treasury warrants were intended to circulate and to serve as currency, and they seem to have served this purpose very well. By 1813 the number of banks had increased and the necessity for this form of currency was not so pressing; accordingly the auditor was authorized to draw a single warrant in settlement of any account, with the consent of the person to whom it was due.<sup>15</sup> In the following year it was provided that auditors' certificates should no longer draw interest.<sup>16</sup>

The progress of the state in culture and wealth is evidenced by the fact that in 1810 there were fourteen newspapers published in Ohio.<sup>17</sup> In the same year the first blast furnace in the state was built and operated in Summit county. Efforts now began to be made to develop manufactures, and in his message for 1811 the governor adverts to the desirability of granting legislative aid for this purpose.

To this end [he wrote] some encouragement for the raising and improving of the breed of sheep, and granting certain privileges to individuals or associations for prosecuting the most useful manufactures, would not be unworthy of the attention of the legislature.<sup>18</sup> [In the following year he recurred to the subject:] In order to encourage domestic manufactures, upon extensive plans, "an act authorizing incorporations for manufacturing purposes", would be useful, that capitalists might associate, and have the regulation of their funds established in some degree under the sanction of law.<sup>19</sup>

The trade down the Ohio and Mississippi rivers was expanding during this period, and simple manufactures were beginning in the Ohio valley. While the earlier shipments had consisted only of raw agricultural products,

<sup>14</sup>Act of Feb. 18, 1809.

<sup>15</sup>Act of Feb. 9, 1813.

<sup>16</sup>Act of Feb. 11, 1814.

<sup>17</sup>Ryan, *History of Ohio*, p. 67.

<sup>18</sup>Gov. Mess. *Ho. J.*, 1811, p. 10.

<sup>19</sup>*Ho. J.*, 1812, p. 12.



they later were subjected to some process of treatment, and were shipped in the form of pork, flour, etc. Soon afterwards simple manufactured articles, such as bagging, rope, twine, candles, glass, and iron, began to appear, and thereafter became increasingly important.<sup>20</sup> The character of Ohio's manufacturing industries and ambitions at this time is probably gained most clearly from the list of taxable property enumerated in the tax law of 1831. In 1795 water, fulling, and oil mills, boats of twenty barrels burden and upwards, "and any other property producing yearly incomes," had been subjected to local taxation.<sup>21</sup> But in 1831 the list was considerably amplified and was made to include the following:<sup>22</sup>

all grist, oil and saw mills; all manufactories of iron, glass, paper, clocks and nails; all distilleries, breweries and tanneries; all iron, brass and copper foundries; all money loaned at interest; all stocks or capital invested in steam-boats; all pleasure carriages with two or four wheels.<sup>23</sup>

In 1811 there occurred an event of revolutionary importance in its effect upon the subsequent development of Ohio: this was the introduction of the steamboat upon the Ohio River. Not until four years later, however, did it succeed in making the trip up the Mississippi River against the swift current. With that event began the era of successful steam navigation on the Ohio. It is impossible to give the number of steamboats in Ohio alone, but the total number on western rivers increased rapidly, from 14 in 1815 to 200 in 1829, and 450 in 1842. Following the example of New York, which had granted Livingston and Fulton a monopoly of the Hudson River, the state of Louisiana had likewise granted them a monopoly of the

<sup>20</sup>See my *Economic History of the United States*, p. 178.

<sup>21</sup>Chase, I, 168.

<sup>22</sup>Chase, II, 1476.

<sup>23</sup>A curious communication from one John Geo. Baxter, a textile manufacturer of Philadelphia, Pa., was printed in the *Senate Journal* for 1808 (p. 20), in which the writer urged upon the Ohio legislature the desirability of establishing textile mills for the purpose of giving employment to the inmates of penitentiaries. "My weavers," he wrote, "who are all women, weave from 15 to 20 yards of cotton-bagging per day, or from 50 to 60 yards of girth-webbing per day."

lower waters of the Mississippi. This limitation upon freedom of navigation was the occasion of much injury and bitterness to steamboat owners and shippers in the Ohio valley as is evidenced by a resolution,<sup>24</sup> passed in 1816 by the Ohio House of Representatives, setting forth the evils inflicted upon navigation by the attempt to enforce the monopoly, and instructing the Ohio members of Congress to endeavor to secure a settlement of the controversy.<sup>25</sup>

The interests of Ohio were too vital and the matter too important not to resist such pretensions as those of New York and Louisiana, and the state did her best to protect the interests of her citizens. An act of 1822 prohibited the landing of passengers on the shores of Ohio [i. e. of Lake Erie] from any boat which

shall claim the right and privilege to navigate so much of the waters of Lake Erie, as is within the jurisdiction of the State of New York, under color of any law of said state, granting the exclusive right of navigation to Robert R. Livingston and Robert Fulton.<sup>26</sup>

Further reprisals were rendered unnecessary by the decision of the Supreme Court in the celebrated case of *Gibbons v. Ogden*, which threw open the waters of the Hudson to free navigation, and by implication also those of the Mississippi and other rivers. A considerable stimulus was thereby given to steamboat navigation in Ohio.

When the legislature met in 1813 war had been declared between England and the United States. Throughout the whole of this contest, the scene of which lay at times upon her very border, the conduct of Ohio was eminently patriotic and honorable.<sup>27</sup> She took occasion at this time to express her position in no uncertain language:<sup>28</sup>

Impressed with a full conviction, that the war in which this nation is involved, is, on our part, just and necessary; that the course pursued by the administration, in recommending the measure, and in its mild, conciliatory and continued efforts to secure to this nation an honorable peace,

<sup>24</sup>*Ho. J.*, 1816, pp. 371-373.

<sup>25</sup>*Ho. J.*, 1816, p. 371.

<sup>26</sup>Act of Feb. 1, 1822.

<sup>27</sup>*Chase*, I, 41.

<sup>28</sup>*Sen. J.*, 1813, pp. 115-116.

merits the entire approbation of this great assembly; and that not only the honor and dignity of this people, but its continuance as a free and independent nation, depends upon a vigorous prosecution of the war—therefore,

*Resolved by the general assembly of the state of Ohio,* That in the name and in behalf of our constituents, we pledge ourselves to aid the national government in the present emergency, to the extent of our resources; and we do this in the hope that the goodly heritage of our freedom may descend from us to posterity as we received it, excellent and unimpaired.

*Be it further resolved,* That we have seen, with emotions of much concern, the protracted delay of the English government to render justice to this nation, for its outrageous depredations upon us; and that we will afford to the constituted authorities, in whose wisdom and firmness we place confident reliance, our utmost support in their efforts to sustain the honor of the nation, and to obtain suitable amends for its injuries.

But not merely in words did Ohio lend her encouragement to the national government. When Congress laid a direct tax upon the people, Ohio promptly assumed her quota and paid it out of the state treasury. "Her sons volunteered, with alacrity, their services in the field; and no troops more patiently endured hardship, or performed better service."<sup>29</sup> In 1814 resolutions were passed in the House of Representatives, approving the conduct of the war by the federal government, and condemning the acts of the enemy, and also of those at home who opposed the war.<sup>30</sup> A dissenting resolution was presented in the Senate, but was not passed.<sup>31</sup>

Upon the conclusion of the war, Ohio took part energetically in a renewal of commercial operations with the rest of the country, and expanded rapidly. Her development at this time is described as follows by a contemporary writer:<sup>32</sup>

Excessive importations were made of foreign goods. The tide of emigration, which had been restrained by the war, now poured into Ohio a large accession of population. The numerous banks, which had been chartered before and during the war, and which continued to spring into existence in every part of the state, supplied an abundant circulating medium,

<sup>29</sup>Chase, I, 41.

<sup>30</sup>*Ho. J.*, 1814, pp. 110-111.

<sup>31</sup>*Sen. J.*, 1814, p. 340.

<sup>32</sup>Chase, I, 42.

Speculation, stimulated by every incentive, ran into wild and extravagant excesses. Improvements of every kind, under its strong propulsion, advanced with wonderful rapidity. But this unnatural state of things could not long continue. Men who had contracted debts found, when called upon for payment, that the means were wanting. Banks, which had made excessive issues, found themselves unable at all times to redeem their paper on demand, and the currency of course began to depreciate.

The disordered state of the currency affected also the state finances, and created difficulties in the payment of taxes by the people, and in the receipt of depreciated bank notes by collectors and the state treasurer. The governor thought it

absolutely necessary, that the legislature should designate by law, what shall be received by the collectors of public money in payment of state and county taxes.<sup>33</sup>

The following year he reported that there was an unexpended balance in the treasury of about \$32,000.

The nominal amount of taxes received, and expected into the state treasury, would indicate its prosperous condition; were it not, that many of the bank bills, which collectors are compelled to receive, if the collection be effected, are in a lamentable state of depreciation.<sup>34</sup>

Again the next year it was stated that

the nature of a part of the funds, in the treasury, has caused some difficulty, in transacting the business of that department; and the public creditors remain unsatisfied, to the amount of more than twenty-six thousand dollars; which would have been discharged, but for the depreciation of the bank notes, of which the remaining fund consists.<sup>35</sup>

Resort was again had to the expedient used so successfully in 1809, of authorizing the auditor to draw bills on the treasurer, in the settlement of accounts due individuals by the state, of even sums of \$10, \$20, "or any fraction between them, or for the whole amount to which a person is entitled"; but for any sum under \$10 only one warrant should be drawn.<sup>36</sup> Two years later this was re-enacted and the faith of the state pledged for the redemption of the bills.<sup>37</sup> As this act was not repealed until

<sup>33</sup>Gov. Mess. *Ho. J.*, 1819, p. 10.

<sup>34</sup>Gov. Mess. *Ho. J.*, 1820, p. 10.

<sup>35</sup>Gov. Mess. *Ho. J.*, 1821, p. 13.

<sup>36</sup>Act of Feb. 22, 1822.

<sup>37</sup>Act of Feb. 24, 1824.



1831,<sup>38</sup> the money stringency was evidently a long continued one, and the auditor's warrants filled a real want, taking the place of depreciated or worthless bank notes.

The reason for this depreciation was to be found in the too extensive and injudicious use of their credit by sanguine borrowers, who were unable to meet their engagements when prices fell and trade declined. The banks were thus left with unnegotiable paper on their hands, and having themselves over-issued, were unable to redeem their circulating notes. At the time, the people held the Bank of the United States, which had established branches at Cincinnati and Chillicothe, responsible for most of their financial troubles. These branches issued notes, redeemable on demand, to a considerable amount, and the presence of this convertible paper doubtless tended to hasten the depreciation of the state currency. The United States branch banks also insisted that the local banks redeem their own notes on presentation, but few could endure this ordeal, and their notes either depreciated greatly or in several cases became absolutely worthless.<sup>39</sup>

In 1816 the seat of the state government was established permanently at Columbus, then a town of only three years growth, yet boasting 200 houses and 700 inhabitants. A contemporary described it as follows:<sup>40</sup>

The streets are filled with stumps of trees and environed with woods, which give the town the appearance of having just emerged from the forest. The houses generally are small and indifferent as the town was laid out on a large scale, considerably scattered. The people have been collected from every quarter and having great diversity of habits and manners of course do not make the most agreeable company. An elegant state house is being erected, about eighty feet square, constructed of brick and finished with elegant white marble.

The governor, in 1816-17, used part of the contingent fund placed at his disposal for the purchase of books for

<sup>38</sup>Act of Jan. 31, 1831.

<sup>39</sup>For a full account of the operations of the Bank of the United States in Ohio, and the efforts of the legislature to drive the branches out of the state, see chapter on Banking, below.

<sup>40</sup>Atwater, *History of Ohio*, p. 177.

the state, and thus laid the foundation of the present state library.

In spite of banking troubles and primitive conditions, the wealth and population of the state continued to increase rapidly. The lands, lots, and dwelling houses in Ohio were valued at \$61,347,215 in 1815; while the population grew from 230,760 in 1810 to 581,434 in 1820. The state enumeration of free white males above twenty-one years of age showed 64,814 on May 1, 1815,<sup>41</sup> and 98,780 on January 1, 1820.<sup>42</sup> The largest proportion of the settlers in Ohio were from the middle states, as Pennsylvania and New Jersey; these were to be found in the central and southern part of the state. Another large contingent came from the South, though not so numerous as the other; these consisted almost entirely of the poorer whites, the non-slaveholding elements. New England made the smallest contribution, and the settlers from that section were to be found chiefly in the northern tier of counties. In the Ohio legislature in 1822 there were 38 members of middle state birth, 33 of southern (including Kentucky), and 25 of New England.

The character of the composite population thus brought together soon showed itself by the stand it took upon the slavery question that was now presenting itself in Congress as a political issue. While the debate over the admission of Missouri was exciting the interest of people throughout the Union, the legislature of Ohio sent the following instructions to their representatives:<sup>43</sup>

Whereas, the existence of slavery in our country must be considered a national calamity, as well as a great political evil; And whereas, the admission of slavery within the new states or territories of the United States, is fraught with the most pernicious consequences, and calculated to endanger the peace and prosperity of our country:—Therefore,

*Resolved by the General Assembly of Ohio,* That our senators and representatives in congress be requested to use their utmost exertions to prevent the admission or introduction of slavery into any of the territories of the United States, or any new state that may hereafter be admitted into the Union.

<sup>41</sup>*Sen. J.*, 1816, p. 277.

<sup>42</sup>*Sen. J.*, 1820, p. 127.

<sup>43</sup>*Sen. J.*, 1820, p. 169.



## EXPANSION: SCHOOLS, CANALS, AND TAXATION.

In January, 1821, the first tax for the support of schools was levied by the legislature. Up to that time they had been supported, so far as they existed, by the proceeds from the sale of school lands. When Ohio was admitted to the Union, it was on the condition that section sixteen in every township should be granted the state for the use of schools, and that additional tracts of land equal in quantity respectively to one thirty-sixth of the Virginia reservation, of the United States military tract, and of the Connecticut reserve should be ceded. In addition to this, three per cent. of the proceeds of the public lands sold within its limits were to be given the state for the construction of roads. As a return, it was provided that Ohio should not tax lands sold by the United States, for five years after sale. Efforts were made to lease the school lands, and to incorporate school societies and libraries, but these were ineffectual as the lands in their wild state could yield no income.<sup>44</sup> Little was done in the way of establishing schools, as the benefits of public schools were then not fully understood, and there was little money in the state. The law of 1821 made the levy of the tax voluntary on the part of the school district, and was therefore inoperative in most sections of the state. Agitation for better schools was carried on by a committee appointed in 1822 by Governor Trimble, consisting of Caleb Atwater, Ephriam Cutler, and Nathan Guilford, and was finally made a political issue. By joining forces with the canal party, laws for the establishment of schools and the construction of canals were passed at almost the same time.<sup>45</sup> The important feature of the school act was that the county commissioners were ordered to levy a tax of half a mill on the dollar "to be appropriated for the use of common schools," in their respective counties. In 1829 the tax was

<sup>44</sup>Rep. of Com'r of Statistics. *Exec. Doc.*, 1859, I, 817.

<sup>45</sup>The canal bill passed Jan. 28, 1825, by a vote of 58-13; and the school bill on Feb. 1, by a vote of 46-24.

raised to three-fourths, and in 1836 to one and a half mills.

The principle of a general school tax had now been adopted, but in practice the act remained very ineffective. During the thirties Governor Lucas urged in his messages the irrevocable appropriation of various trust funds to the support of schools, which was strongly seconded by the Educational Convention in 1836. The result was the enactment of the act of March 7, 1838, which established a permanent school fund to consist of "the interest on the surplus revenue, at 5 per cent., the interest on the proceeds of salt lands, the revenue from banks, insurance and bridge companies, and other funds to be annually provided by the state to the amount of \$200,000." The proceeds from the sale of school lands were rather unfairly distributed among the counties and townships according to their respective interests in such lands.<sup>46</sup> In the following table is shown the growth in the amount of taxes and funds of all kinds devoted to the support of common schools:<sup>47</sup>

TOTAL AMOUNT OF ALL		
YEAR.	STATE TAXES.	FUNDS (STATE AND LOCAL)
1825.....	\$ 29,763	\$ 29,763
1841.....	128,353	507,353
1858.....	1,259,092	2,906,020

The state of the treasury called for notice in the governor's message in 1822, and was described as less encouraging than I could have wished; and it will become necessary, in justice to present and future creditors, for the legislature to examine what sources of revenue they can command, to supply with least vexation, the deficiency occasioned by depreciation and defalcation; and what retrenchment can be made in expenditure, without injury to the public service . . . . The debts, some time since contracted by improvident speculation of the adventurous, and probably aggravated by a too careless economy in general, continue to bear, though with abated weight, on the industry of our community. The resource of the country's productions you will be sensible, has greatly failed to remove this embarrassment, from the want of demand and their low price, since the late war.<sup>48</sup>

The staple products of Ohio were practically excluded from

<sup>46</sup>*Exec. Doc.*, 1859, II, 41.

<sup>47</sup>*Rep. of Com'r of Stat. Exec. Doc.*, 1859, I, 823.

<sup>48</sup>*Gov. Mess. Ho. J.*, 1821-22, p. 8.

the Atlantic market, owing to the heavy charges for transportation from the interior; while perishable articles were always exposed to the hazard of a too hot climate when sent to New Orleans.

The necessity of relying on our internal resources admits not of a question [concluded the governor<sup>49</sup>] but the manner in which those resources can best be called into action, for immediate alleviation of distress, and to provide, at the same time, for future prosperity, is more doubtful, and demands the most discriminating intelligence of our statesmen. One of the evident means to mitigate the present hardships, and promote our independence, is in those manufactures which can be economically executed in our country; but to what extent the skill and industry of the inhabitants have, hitherto, been able to provide those necessities for which they had depended on importation, appears too little known; yet it is believed to be very considerable.

In his message of 1823, the governor recurs to the subject as follows:

The industry, frugality and rigid economy so generally observed are gradually relieving the country from embarrassment, and the agricultural, manufacturing and commercial interests of the state are manifestly improving.<sup>50</sup>

To add to the financial distress the year 1821 was "unusually sickly",<sup>51</sup> while in 1823 "an epidemic widely extended in its range and unusually virulent in its attacks"<sup>52</sup> visited a large portion of the state. At the same time there was a partial failure of the crops in that part of the state where the fevers were most prevalent. Nevertheless the governor believed that "the products of the year will be found sufficient for the subsistence of the inhabitants, leaving a surplus for exportation, equal perhaps, to the present limited demand for our bread stuffs."<sup>53</sup>

By 1825 the growth of population and production had increased the agricultural surplus of Ohio beyond the then existing means of transportation. The state census of 1825 showed the number of white male persons in the state

<sup>49</sup>*Ibid.*, p. 9.

<sup>50</sup>*Ho. J.*, 1823, p. 30.

<sup>51</sup>Gov. Mess., *Ho. J.*, 1822, p. 8.

<sup>52</sup>Gov. Mess., *Ho. J.*, 1824, p. 15.

<sup>53</sup>*Ibid.*, p. 15.

on January 1, to be 124,724,<sup>54</sup> while the total number of inhabitants was estimated at over 700,000. As agriculture was practically the only occupation,<sup>55</sup> and an outlet for its products was to be found only in those districts bordering on the rivers or lake, the surplus in the interior counties was almost valueless. Thus in 1825 wheat was sold in the interior counties for 37 cents a bushel and corn for 10 cents.<sup>56</sup> The need of an outlet for this produce to the Atlantic seaboard was strongly felt, and led to the agitation for a system of canals which should connect the Ohio River with Lake Erie and provide water communication for the interior counties. Accordingly in 1825 work was begun on the Ohio canal, which crossed the state from

<sup>54</sup>*Ho. J.*, 1825, p. 428.

<sup>55</sup>In 1830 the governor writes: "Our state is essentially agricultural". *Ho. J.*, 1830, p. 10.

<sup>56</sup>Ringwalt, *Transportation Systems*, p. 155. The following quotation from the *History of Seneca County (Springfield, Ohio, 1880, p. 213)*, by W. Lang, describing conditions as they existed in the twenties, is of particular interest, and is therefore given *in extenso*: Great was the trouble owing to scarcity of money. Barter and trade was the order of the day, and while this exchange was all right in some respects, it would not answer for others. Taxes could not be paid in that way, and the merchant, after waiting a long time, had to have cash with which to meet his bills in New York or Philadelphia. When a man had anything to sell, it found no market for money. He could trade it away for something he wanted from his neighbor. If a man wanted an article from another, and had nothing to exchange for it, he paid in work by the day, or agreed to clear so many acres of land for the article. Men bought their cows, their horses or hogs, in that way. Corn and wheat were hauled by ox teams, generally to Mansfield or Sandusky, to be sold for money. Wheat was hauled to a market forty to sixty miles away, where it could be sold for only 30 cents a bushel in cash, or for 3 shillings [37½ cents] in trade. Sandusky was the principal market [of Seneca county] for wheat, and many a load was sold there, at 3 shillings a bushel, for salt at \$5 a barrel, when it took about one week to make the trip.

Getting grinding done at the few mills there were then in the county, was attended with equally great hardship. After the City Mill of Tiffin was put up, farmers from Crawford, Hancock, and Marion counties, came here to get their grists ground, and at times 15, 20, or more teams waited their turn and camped out a whole week.



Portsmouth on the Ohio River to Cleveland on Lake Erie, and on the Miami canal between Dayton and Cincinnati.

During the next few years the legislature gave its almost undivided attention to the building of these canals, and devoted little to other matters. The reports of the auditor, the governors' messages, and the journals of the general assembly, contain little but discussions of the canal, and later railroad, construction, coupled with prophecies of the future greatness of Ohio as a result of the policy of internal improvements. Nor is much additional light on current events to be gained from the laws, which seem directed only to the single end of canal legislation.<sup>57</sup>

The completion of the Ohio canal in 1833 opened up the whole interior region of the state to the northern and eastern, as well as to the southern, markets. Continuous water communication was now possible from a large part of Ohio via the Ohio canal, Lake Erie, the Erie canal, and the Hudson River to New York City and the Atlantic seaboard, and thence to Europe. As a result the agricultural exports of Ohio increased enormously and at the same time better prices were received. In 1835 there were shipped from the state of Ohio through by canal to New York 86,000 barrels of flour, 98,000 bushels of wheat, and 2,500,000 staves.<sup>58</sup> But the effects of the canals were not confined to Ohio alone. The pouring of this vast amount of western produce into the eastern markets reduced the prices of those products in New England and the East, lowered the price of farms, and started a wave of migration to the Central West. Ohio experienced an unprecedented wave of prosperity and grew rapidly in population and resources. The population of the state increased from 937,679 in 1830 to 1,515,161 in 1840. In 1835 the white male inhabitants over twenty-one years of age were 235,225. The character of the immigrants was high; they

<sup>57</sup>The financial and legislative history of this period will consequently be found at greater length in a forthcoming monograph on Internal Improvements in Ohio.

<sup>58</sup>*Rep. on Internal Commerce of the U. S.* (1887), p. 202.

possessed habits of industry and enterprise, and speedily converted the forested areas into fruitful fields, and helped to build up thriving villages. There was a slight check to the general expansion in 1833, owing to the prevalence of the cholera in parts of the state,<sup>59</sup> but it did not continue long.

A decided stimulus was given to the agricultural interests of the state, and in 1833 an act was passed by the legislature to authorize and encourage the establishment of agricultural societies. In response to this suggestion a number of such societies were formed in the counties of Licking, Washington, Greene, Clinton, and Pickaway, "exhibiting very flattering tabular statements of the condition of their respective counties in an agricultural and manufacturing point of view."<sup>60</sup> The chairman of the standing committee on agriculture reported to the House in 1834<sup>61</sup> that "within a few months an association has been formed for the purpose of importing the best breed of European cattle", that "another association has also been formed with the view of selecting for this valley, some of the best stock in the northern part of the Union". Similar efforts were also made to improve the breeds of sheep and hogs.

The state was still distinctively an agricultural state, and continued to be so as long as labor could be more profitably employed in agricultural than in manufacturing pursuits. There was, however, a considerable development of domestic manufactures, which was described in the governor's message of 1834.<sup>62</sup>

In speaking of manufactures, [he wrote] I do not allude to establishments that require large investments of capital and protecting duties to enable them to sustain themselves, for we have few such in Ohio, but to such as have been established by our enterprising citizens, for manufacturing materials produced within the state. Those carried on by mechanics in their shops; and particularly that description of manu-

<sup>59</sup>Rep. of Canal Commissioners. *Ho. J.*, 1833, p. 297.

<sup>60</sup>*Ho. J.*, 1834, p. 622.

<sup>61</sup>*Ho. J.*, 1834, p. 455

<sup>62</sup>Gov. Mess. *Ho. J.*, 1834, p. 8.



factures in which our industrious females are the principal operators, and may be found in the greater portion of families in the state, where the various articles of common clothing, bedding, carpeting, and sundry other necessary articles for the use of the family are manufactured; these manufactures are calculated to render us independent as a people, particularly the last which is truly domestic in its character, extensive in its benefits and cannot be too highly commended.

Of factories in the modern sense there were none, nor was production on a large scale present. "With the exception of the articles of salt and iron the manufactories in Ohio are not extensive," wrote the governor in 1836.<sup>63</sup>

The year 1825 had also been marked by a thorough revision of the revenue laws. The act of February 3, 1825,<sup>64</sup> for the first time abandoned the primitive practice of classifying the land according to the quality of the soil, and added other sources of state revenue to the land tax, from which almost the whole of the income of the state had up till now been derived. Town lots and buildings, dwelling houses, horses and cattle, pleasure carriages, and the capital of merchants and exchange brokers were now subjected to taxation. By this act the principle of the general property tax, and much of its administrative machinery, was introduced, though it was by no means fully carried out in practice. In 1831 the list of taxable objects was considerably enlarged, and a number of kinds of property, especially that engaged in manufacturing of all sorts, was added to the list of taxable property. No further charge was made until the thorough-going application of the theory of the general property tax in 1846. The results of the changes in the tax laws were promptly seen in the improved financial condition of the state treasury. "The receipts from taxation annually exceed our calculations," wrote the auditor in 1831.<sup>65</sup> There was evidenced in this fact not merely improvement in the revenue laws, but even more clearly the rapid growth of wealth and prosperity in the state. The period was one

<sup>63</sup>Gov. Mess. *Exec. Doc.*, 1836, No. 1, p. 23.

<sup>64</sup>Chase, II, 1476.

<sup>65</sup>Aud. rep. *Ho. J.*, 1831, p. 24.

of general expansion and of undoubted prosperity, though it was given an artificial stimulus by the over-issue of bank notes and the development of speculation. In these regards the experience of Ohio was not very different from that of other states.

The success of the Ohio canal induced the state to enter upon a more ambitious and comprehensive system of internal improvements. Additional canals were projected and begun: the Miami and Erie connecting the Ohio River at Cincinnati with Lake Erie at Toledo, the Wabash and Erie, Hocking Valley, the Muskingum improvement, etc. Every part of the state was clamorous for improvements and they were begun simultaneously at various points. Nor were they confined to canals alone; turnpikes, slackwater navigation companies, railroads, etc., also claimed assistance. The major part of the business of the legislature during this period of expansion consisted in incorporating companies for purposes of internal improvement. Thus, during the sessions of 1835-6 and 1836-7 the following local acts were passed:

	1835-6	1836-7
Sale of public lands .....	13	15
Manufacturing companies .....	—	16
Insurance companies .....	—	13
Railroad companies .....	32	15
Roads .....	50	58
Turnpike companies .....	14	23
Bridge companies .....	5	6
relating to bridges .....	7	2
Canal companies .....	5	—
relating to canals .....	13	—
Slackwater navigation companies.....	—	5

Many of these projects were visionary and impracticable, but the enthusiasm of the times had blinded people and legislators alike to the usefulness or feasibility of schemes of internal improvement. Additional stimulus was given, if any was needed, by the act of Congress in distributing the surplus revenue of 1837 among the states. Ohio accepted her share of the act of December 19, 1836,

and distributed it among the counties, where it could be loaned out by the commissioners, subject, however, to the recall of the state in 1851. The proceeds were devoted to the support of the common schools. The following year Ohio passed her famous loan law, according to which the credit of the state was loaned to railroad companies; and the state was authorized to subscribe, under certain conditions, to the stock of canal, turnpike, bridge, and other companies. The result was the multiplication of these companies, and the straining of the credit of the state almost to the breaking point.

A reversal of parties in 1838 resulted in the repeal of much of the rather radical legislation of 1836, and the enactment of new measures. Provision was made for a new state house, by the appointment of three commissioners, who were authorized to offer three prizes of \$500, \$300, and \$200 for the best plans.<sup>66</sup> The board of public works, which had been created two years before, was abolished and the old board of canal commissioners reinstated; banking legislation was also passed. But in the following year the canal commissioners were put out of office again, and the legislation of 1838 reversed. The board of public works was restored, the commissioners for the new state house removed,<sup>67</sup> and the banking legislation repealed. In 1838 Ohio rather tardily joined the list of states which had abolished imprisonment for debt, by abolishing it for debts under \$100.<sup>68</sup> The growth of the state and its rapid settlement is shown by the fact that there were now seventy-five counties, of which some contained towns of considerable size. The price of land varied throughout the state from \$1.25 to \$100 an acre. As proof of the prosperity that prevailed a contemporary writer stated that the price of labor was 50 per cent. higher than in the Atlantic states, while provisions were about 50 per cent. cheaper than there.<sup>69</sup>

<sup>66</sup>Act of Jan. 26, 1838.

<sup>67</sup>Act of March 11, 1840.

<sup>68</sup>Act of March 19, 1838.

<sup>69</sup>Atwater, *History of Ohio*, p. 316.

## PANIC, BANKING PROBLEMS, AND ECONOMY.

The panic of 1837, which followed the undue expansion of industrial activity, the investment of so much capital in fixed and often unproductive forms, and the excessive currency inflation and speculation, affected Ohio along with the rest of the country. Conditions were never so bad in the Ohio valley, however, as in the East. "In this state", wrote the governor in January, 1839.<sup>70</sup>

our citizens have felt the pressure to a considerable extent, and are still laboring under its unfavorable influence. It has not, however, fallen with the same force on us as on the citizens of some other portions of the Union. This is owing to the fact that we are more an agricultural, than a manufacturing or commercial people; and, comparatively speaking, but little in debt. The embarrassment and pressure among our business men in Ohio, I am convinced, will be of but temporary duration. Their business habits, energy of character, with the great and increasing resources of the country, will soon enable them to recover from their present difficulties. The mechanical and agricultural portions of the community being generally out of debt, have not experienced the same embarrassments that have been felt by the merchants, and those engaged in heavy business, demanding large capital and extensive credit.

The contraction of the banks, and the consequent scarcity of a circulating medium, when compared with former years, increased the embarrassment. Between April 30, 1837, and September 30, 1838, the discounts of the banks were reduced \$8,237,537 and the circulation \$1,824,419. A still more drastic reduction of the circulation was made the following year, between April 30 and September 30, 1839, of \$4,460,775; the outstanding bank notes were now only \$3,697,098. At the same time an unusually abundant harvest of wheat depressed the price of that staple, and made the payment of debts contracted under the regime of high prices still more difficult.<sup>71</sup>

As a consequence of these embarrassments, the legislative session of 1840 showed great economies: the loan law was repealed, as was also the act for the erection of the new state house; the number of members on the board

<sup>70</sup>Gov. Mess. *Exec. Doc.*, 1839, I, 6.

<sup>71</sup>Gov. Mess. *Exec. Doc.*, 1840, I, 23.



of public works was reduced, the receipts and disbursements of the canal fund were brought under the control of the auditor, and canal appropriations were cut heavily. As evidence of good faith in their economies, under the heavy pressure that was brought to bear upon them, the legislature soon after reduced their own pay and that of most of the state officers.<sup>72</sup> But as soon as the immediate pressure was removed they restored their own pay again to the previous rate,<sup>73</sup> and the following year repealed the rest of the act.<sup>74</sup> But not merely were public economies affected; "a laudable spirit of economy seems to pervade the whole community".<sup>75</sup> There was during this whole period a large balance of indebtedness against Ohio in favor of the East for manufactured goods and for interest on borrowed capital, which necessitated an excess of exports every year. To the payment of these obligations the people of Ohio manfully and energetically applied themselves. The interest on the public debt was faithfully met, and private debts were rapidly paid off.

That the economic foundations upon which Ohio had reared her structure of credit during these years was at basis sound, is shown by the exports from the state in 1840.<sup>76</sup>

<sup>72</sup>Act of Jan. 27, 1844. The pay of members of the general assembly was fixed at \$2.00 per day, and \$2.00 for every 25 miles traveled to the state capital. The governor was allowed a salary of \$1,000; the secretary of state \$500; auditor, \$730; treasurer, \$730; judges of the supreme court, \$1000; president judges of the courts of common pleas, \$730; etc.

<sup>73</sup>Act of Jan. 29, 1847. The rates were now \$3.00 per day for the first sixty days of the session, and \$1.00 per day thereafter; and \$3.00 mileage for every 25 miles travel.

<sup>74</sup>Act of Feb. 7, 1848.

<sup>75</sup>Inaugural address of Governor Shannon, Dec. 14, 1842, p. 4.

<sup>76</sup>Rep. of Commissioners of Canal Fund. *Exec. Doc.*, 1841, Doc. No. 49, p. 17.



EXPORTS IN 1840	ESTIMATED VALUE
Breadstuffs, mostly wheat and flour.....	\$ 7,098,810
Other agricultural products, including distilled spirits.....	1,874,402
Products of domestic animals, chiefly pork, lard, butter, cheese, and wool .....	2,315,069
Domestic animals driven from the state on foot .....	2,600,000
Products of mines and forests.....	782,700
Manufactured articles .....	5,000,000
Total .....	\$19,670,981

During this same year 7,500,000 acres of land were reported to be in cultivation, most of which was devoted to wheat growing. Ohio every year sent a considerable surplus of this staple to the East, and some of it abroad. "A large amount of the wheat of Ohio and Michigan has found its way to England, through the Canadas, within the past few years, by paying mere nominal duties."<sup>77</sup> The depression in the value of wheat made it difficult for the farmers to pay their taxes, which the extravagant undertakings of the state had raised to a high rate, while even at this early date the soil began to show signs of exhaustion from steady cultivation of wheat and lack of fertilizers. By neglect and unskilful tillage [wrote the governor in 1845<sup>78</sup>] nearly one-half of the products of this great source of wealth and prosperity [i. e. agriculture] may be lost. Already it is apparent in some parts of the state that a deterioration of the soil has taken place, and great want of skill exists in the production of crops. The agriculturists in our state have not adopted those improvements and useful discoveries which have been made in the cultivation of the soil.

One interesting and natural result of the panic was the almost complete cessation of works of internal improvement. Thus the laws incorporating new companies, and providing for works of this sort, dropped to almost nothing. In 1843 acts of incorporation were passed for only three banks, one canal company, five turnpike companies, and to lay out two state roads. As contrasted with the feverish activity displayed in 1835-36 or 1836-37 this marked a great decline. Such a change must be regarded

<sup>77</sup>Gov. address, Dec. 14, 1842, p. 7.

<sup>78</sup>*Exec. Doc.*, 1845, I, 6.

as a gain, for the time and attention of the legislature had been absorbed in the work of special and local legislation for years, and evils of lobbying and illegitimate influences had inevitably grown up at the state capital under such a system. The banks had possibly been the worst offenders, as they were the greatest beneficiaries. So great had grown the evil that in 1844 the governor devoted special attention to it in his annual message to the legislature.<sup>79</sup> The following extracts are of especial interest:

It is apparent that special and local legislation in this State has been indulged until it has truly become an evil. Within the last six years, two thousand and fifty-nine acts have been passed, of which seventeen hundred and forty-six are special statutes, and three hundred and thirteen fall under the denomination of general laws. . . . Of the seventeen hundred and forty-six special acts above mentioned, eleven hundred and twenty-seven relate to corporations—the grants of exclusive privileges and special immunities to associations of individuals. This class of special legislation has been continued in nearly an equal ratio for the last ten years; and should it be persevered in, and corporations continue to multiply as heretofore, for the next twenty years, the State will be literally thatched with charters of incorporations, and the past subterfuges, pretenses, frauds and profligacy of corporations will form but a miniature epitome of what will be exhibited in future. . . . One of the evil tendencies of the present age is a venal spirit of adventure, stimulated by a thirst to acquire property without earning it, and a desire to transact business through the agency of acts of incorporation. Wealth has its appropriate influence, and possesses naturally intrinsic advantages over labor; but when associated under charters, and favored with special immunities, and exclusive privileges, it builds up oppressive monopolies in the business of the country, and acquires an undue ascendancy over the interests and rights of the private citizen.

Although the activities of the state were checked in works of internal improvements, the local governments did not withdraw so quickly from the field. When once the virus had entered the blood the fever of speculation was not so easily cured. An act of 1846 provided for holding a referendum in counties, in case the county commissioners wished to subscribe to the stock of a railroad, turnpike road, or other incorporated company.<sup>80</sup> There

<sup>79</sup>Gov. Mess. *Exec. Doc.*, 1844, I, 11.

<sup>80</sup>Act of Feb. 28, 1846.

seems to have been a shifting of these works from the state to the local governments, rather than a complete withdrawal from works of public improvement. By vigorous efforts and loans at almost ruinous rates of discount the state pushed the work on the canals to completion by 1848. In that year the state debt reached its highest point, and measures were taken to create a sinking fund for its liquidation. The effect of these acts on the credit of the state was at once apparent, and Ohio's credit rose high in the loan market; the six per cent. stock of the state was quoted in New York at 103¼.<sup>81</sup>

Meanwhile another problem was pressing for solution at the hands of the legislature—that of banking. In Ohio, as elsewhere at this time, the idea had prevailed that the prosperity of the state was dependent upon the increase in banking institutions and the expansion of bank issues. At the sessions of 1835-6, 1836-7, 1838-9, and 1840-41, petitions for more banks were crowded upon the legislature in unequalled numbers.<sup>82</sup> A majority of the bank charters were to expire in 1843 and 1844, and it was now possible for the legislature to prescribe more carefully, if they wished, the conditions of banking. This they did by a general act of March, 1842, which superseded the old special charters and imposed rigid restrictions on the abuses heretofore practiced. This was alleged to be too severe, and though it was modified the following year, no banks were organized under it. Finally, by act of Feb. 24, 1845, the State Bank of Ohio was established with seventeen branches, and nine so-called independent banks were chartered; in addition to these there still remained eight banks doing business under charters granted under the old banking system. The aggregate amount of the banking capital of these thirty-four banks on November 1, 1846, was \$5,826,677, and the whole circulation was \$5,674,769.<sup>83</sup> The new law provided for a more careful regula-

<sup>81</sup>Rep. Board of Canal Fund Com'rs, Jan. 15, 1849, p. 107.

<sup>82</sup>*Exec. Doc.*, 1844, Doc. No. 1, p. 11.

<sup>83</sup>Gov. Mess. *Exec. Doc.*, 1846, 1, 10.

tion and supervision of the banks than had been the practice, and limited the circulation so as to provide a more uniform and stable currency.

And already [wrote the governor at the beginning of 1846] the people of Ohio begin to feel the influence of this system in the restoration of confidence, the revival of business, the increase of the wages of labor, and the rising prosperity of the State.<sup>84</sup>

But the hard times were by no means over, as is evidenced by an act of 1845,<sup>85</sup> for the relief of borrowers of the surplus revenue fund in the hands of the counties, extending the time of payment of interest and of execution for non-payment. To meet the needs of the state and make good the decline in ordinary revenue, the legislature sought out new sources of taxation, as money brokers in 1845.<sup>86</sup> They also proceeded to close the doors as far as possible to loose use or misuse of the public funds by an act of 1846,<sup>87</sup> to punish embezzlement of the public moneys. This was broadly defined as using, loaning, or investing such money and was punished by a fine of from \$50 to \$500 and the loss of office; contracts for personal advantage were also forbidden. The enactment of such a law certainly points to the existence of loose methods of handling the public moneys, and a desire to improve conditions.

Progress along cultural and industrial, as well as financial lines, was evidenced by a number of isolated events. In 1844 public executions were abolished.<sup>88</sup> Two years later a state board of agriculture was established;<sup>89</sup> it met and organized April 1, and made its first report on December 25 of the same year. The wave of democracy that swept over the country at this time affected Ohio also. In 1850 it was provided that the members of the board of public works, the attorney general, and other appointive state officers, should thereafter be elected by the people.<sup>90</sup>

<sup>84</sup>Gov. Mess. *Exec. Doc.*, 1845, I, 5.

<sup>85</sup>March 11, 1845.

<sup>86</sup>March 12, 1845.

<sup>87</sup>March 2, 1846.

<sup>88</sup>Act of March 12, 1844.

<sup>89</sup>Act of Feb. 28, 1846.

<sup>90</sup>Act of March 22, 1850.



The industrial development of the state also claimed the attention of the legislature: in 1847 an act was passed "to facilitate the construction of the Electric Telegraph", by providing that lines might be constructed in any place "so they do not incommode the public";<sup>91</sup> and in 1851 lotteries were absolutely forbidden. The following year the legislature passed the first state law regulating the hours of labor for children under 18 years of age and for women.<sup>92</sup> This antedates the law of Massachusetts, claimed to have been the first on the subject,<sup>93</sup> by fourteen years, and is consequently worth quoting at length:

SECTION 1. That in all manufactories, workshops and other places used for mechanical or manufacturing purposes, in the state of Ohio, where children under the age of 18 years, and women, are employed, the time of labor of the persons aforesaid, shall not exceed 10 hours for each day. (Employers who offended were to be fined from \$5 to \$50, and all fines were to be used for the support of the common schools).

SECTION 2. That in all engagements to labor in any mechanical or manufacturing business, a day's work, when the contract of labor is silent upon the subject, or where there is no express contract, shall consist of 10 hours.

As the act was rather loosely drawn, especially in the second section, which was not expressly limited to women and children, and no provision seems to have been made for the administration or enforcement of the law, it is probably to be regarded rather as a "pious wish" than a practical measure.

The need of a new and more commodious and better built state house had long been felt, and after the destruction of the old one by fire it became imperative. Accordingly, when the pressure of financial stringency was removed, the legislature returned to the work, which had been begun in 1838 and suspended in 1840. Three commissioners were appointed in 1846 to take up again the work of building.<sup>94</sup> The work dragged along for six years and then the

<sup>91</sup>Act of Feb. 8, 1847.

<sup>92</sup>Act of March 10, 1852.

<sup>93</sup>I. e. by C. D. Wright, *Industrial Evolution of the United States*, p. 267.

<sup>94</sup>Act of Feb. 21, 1846.



acting commissioners were removed and others appointed, for the "more efficient and expeditious completion of the state house". An act of 1848 provided for the use of convict labor in its construction,<sup>95</sup> and convicts from the state penitentiary were employed to cut stone and as laborers, thereby saving considerable for the state. It was not completed, however, without some suspicion of graft.<sup>96</sup> The state house then erected still serves the state, though rather inadequately, and stands as a monument to the architectural taste of the designer and the efficiency of the builders.

Since the inauguration of the system of state taxation by means of a general property tax in 1825 the state had grown greatly in population and wealth; new forms of property had come into existence and new sections of the state had been settled. The law of 1825 had exempted numerous forms of property from taxation, and although this was largely corrected by the act of 1831, the system was still very unequal and full of favoritism and inconsistencies. Accordingly the act of March 2, 1846, was passed, "for levying taxes on all property in this state according to its true value". The general property tax, which had simply been initiated in 1825, was now introduced in modern form, with the necessary administrative machinery, and an effort was made to tax all property in the state with some few exceptions. It was slightly amended by two minor acts,<sup>97</sup> and was then entirely repealed and replaced by the long act of March 25, 1851, which, however, introduced few changes except the extension of the list of property exempt from taxation. Hardly had this act been passed when it was rendered obsolete by the adoption of the new constitution, and was swept out of existence together with a mass of other legislation.

<sup>95</sup>Act of Feb. 24, 1848.

<sup>96</sup>See chapter III, on Financial Administration.

<sup>97</sup>Feb. 8, 1847, Feb. 22, 1848.

## THE CONSTITUTION, CURRENCY, AND CORRUPTION.

For almost half a century no change had been made in the fundamental law of the state, and the constitution that had been framed for a pioneer population of 50,000 scattered agriculturists did not meet the needs of a larger and more heterogeneous population with diversified interests. An attempt to call a constitutional convention in 1820 had been defeated by the decisive vote of 29,315 to 6,987,<sup>98</sup> although only about one-third of the qualified voters of the state expressed their preference on the ballot. In 1851, however, it was decided to amend the old constitution. The convention that was called at this time consisted for the most part of representatives of the agricultural interests of the state, and were animated by a determination to subject the corporations, and especially the banks, to taxation equal to that borne by the rest of the community. They accordingly embodied in the new constitution the requirement of equal taxation and uniform treatment of all property, corporate as well as individual.

One great improvement, involving an enormous economy of time and effort to the general assembly, was the passage of a general incorporation act in 1852.<sup>99</sup> Thus the local laws passed by the session of 1850 comprised 709 pages, as opposed to only 98 pages of general acts. Of these local acts the majority related to the incorporation or amendment of the charters of corporations. For instance, in 1850 there were 42 acts to incorporate turnpike companies, and about as many more to repeal or amend previous incorporation acts; in 1851 there were 21 acts to incorporate rail-road companies, 29 acts to amend previous incorporation acts, and 36 other acts relating to subscriptions, stock, and other business of rail-road companies. On the other hand, in 1852, after the passage of the general incorporation law, there were only 24 local acts passed during the whole session, and most of

<sup>98</sup>*Ilo. J.*, 1820, p. 12.

<sup>99</sup>May 3, 1852.

these related to counties and townships. A more striking example of the value of such a general act would be difficult to find. The session of 1852 was a long and hard working one, continuing until May 3. The time was taken up largely with overhauling and codifying and reenacting laws, so as to bring them into conformity with the new state constitution.

One of the results of their labor was a long and carefully worded act,<sup>100</sup> applying the principles of the constitution—"an act for the assessment and taxation of all property in this state, and for levying taxes thereon according to its true value in money". This was a thorough-going attempt to tax *all* property uniformly under the same law, which has since given so much trouble in the taxation of corporations, but which has so far resisted all efforts to change it,<sup>101</sup> although amendments to the constitution have been repeatedly urged. In addition to the tangible real and personal property hitherto taxed, money and credits, securities of every sort, corporations, and banks were specifically enumerated and listed. The list of property to be returned was lengthened, and the duties and powers of officers entrusted with the assessment and collection of the taxes employed. Numerous amendments corrected the faults of the original act, and closed the doors to evasion and fraud.

The banks resisted the act vigorously and refused to pay taxes levied under its provisions, questioning its fairness and its constitutionality. In consequence the legislature in the following year directed a savage act<sup>102</sup> against them, giving the county treasurers the right to seize coin and securities if the tax were not paid, and imposing penalties of \$1000 fine or imprisonment in jail for 60 days, or both, for any official who concealed coin or securities for

<sup>100</sup>Act of April 13, 1852.

<sup>101</sup>In the elections of Nov., 1909, the voters approved of a constitutional convention to revise the constitution. This section will undoubtedly be changed by the convention now in session (March, 1912).

<sup>102</sup>Act of March 14, 1853.

the purpose of evading the tax. Not until after four years of constant struggle between the banks and the legislature was this act repealed,<sup>103</sup> and a compromise effected by which they were taxed very clumsily upon their business<sup>104</sup> instead of their property. The following year a constitutional amendment was presented to the people on the subject of the separate taxation of banks. It was provided that in voting on this proposition the voter should write on his ballot the words: "Bank and individual taxation equal—yes; bank and individual taxation equal—no". This looks like a shrewd method of defeating the proposed amendment, and the banks evidently so regarded it, for upon its rejection, they again resisted the collection of the tax, and the law of March 14, 1853, was virtually re-enacted.<sup>105</sup> Although they succeeded in breaking down these laws in the courts, the banks were finally forced to yield, as their charters needed renewing; while other banks, whose charters<sup>106</sup> guaranteed them other methods of taxation, were induced<sup>107</sup> to assent to the provisions of the general tax law of 1852.

The burden of high taxes was more than once complained of during this period,<sup>108</sup> and they certainly showed an alarming increase. Between 1846 and 1859 the aggregate taxes increased 255 per cent.; the rate of increase for the state taxes being 165 per cent., and for local taxes 329 per cent.<sup>109</sup> The state taxes made up barely one-third of the total, so that complaints were more justly directed against the local taxes, especially those levied by the counties. It was estimated in 1853 that the total state and local taxes constituted an annual exaction of \$25 from every voter and of nearly \$6 from every individual in the

<sup>103</sup> Act of Feb. 26, 1857.

<sup>104</sup> Act of April 1, 1856.

<sup>105</sup> Act of April 12, 1858.

<sup>106</sup> Under act of Feb. 24, 1845.

<sup>107</sup> Act of April 8, 1856.

<sup>108</sup> Gov. Mess., 1855, p. 10; 1859, p. 93; aud. rep., 1854.

<sup>109</sup> Rep. Com'r of Stat. *Exec. Doc.*, 1859, I, 799.



state.<sup>110</sup> In addition to these taxes there were considerable fees paid to county, township, and other local officers. But the taxes had not grown any faster than the wealth of the people and their taxable property.

At no former period in the history of the state [wrote the auditor in 1854<sup>111</sup>] has her population, and the various avocations in which they are engaged, been more abundantly prospered, than in the golden era in which they are now embarked.

The following year witnessed a slight set-back and the auditor noted "the financial embarrassments which have prevailed among states as well as individuals" during the year, in spite of which Ohio discharged all current liabilities, paid the interest of the public debt, and redeemed almost \$700,000 of the principal.

Provision had been made by the law of February, 1825, which provided for the construction of the canals and created the state debt, for the establishment of a sinking fund, by which the debt should be paid. During the period of state encouragement of internal improvements, however, this fund had been used to provide means for additional undertakings without resorting further to taxation. In 1848<sup>112</sup> the plan of a sinking fund was revived, and three years later was made compulsory by the constitution. The provisions of the constitution were carried out by the act of 1853,<sup>113</sup> which provided for an appropriation for the current year of \$100,000, and for each year thereafter compounding at the rate of 6 per cent. per annum until the debt should be paid.<sup>114</sup>

The decade was characterized by loose financiering, and even by graft and corruption, for the statute books of this period are full of enactments designed to check abuses. In 1856 three joint investigating committees were appointed to investigate (1) the acts of all public agents

<sup>110</sup>Gov. Mess. *Exec. Doc.*, 1853, p. 11.

<sup>111</sup>Aud. rep., Feb. 12, 1853.

<sup>112</sup>Act of Feb. 24, 1848.

<sup>113</sup>Act of March 14, 1853.

<sup>114</sup>See my article on *The State Debt of Ohio*, in *Journal of Political Economy*, May, 1911, p. 390.



who have or had the custody or disbursement of public moneys; (2) the acts of the board of public works; and (3) all the transactions and expenditures about the new state house, the penitentiary, the three lunatic asylums, the blind, and deaf and dumb asylums.<sup>115</sup> This was followed the next year by an act which provided that all state officers should keep accurate and distinct accounts.<sup>116</sup> Meanwhile, however, the treasury had been looted and in June, 1857, when it was necessary to provide funds for the payment of the semi-annual interest on the state debt, the state treasurer confessed to a defalcation of over \$580,000. Subsequent investigations raised this amount to \$744,000. A commission appointed the following year<sup>117</sup> to investigate the subject discovered that the misappropriation of state funds ran back almost a decade and involved the good name of two state treasurers, while the officials of various banks were not altogether free from blame or from suspicion of sharing in the spoils.<sup>118</sup>

#### MATERIAL DEVELOPMENT: AGRICULTURE AND TRANSPORTATION.

In spite of official corruption, of disordered currency, and of the prostration of credit resulting from the panic of 1857, the material development and prosperity of Ohio proceeded without abatement. During the panic year of 1857 the harvests were abundant,<sup>119</sup> and the general health unbroken.

<sup>115</sup>Act of April 11, 1856.

<sup>116</sup>Act of April 16, 1857.

<sup>117</sup>April 12, 1858.

<sup>118</sup>See below, p. 88.

<sup>119</sup>The wheat crop for this year was the largest, with one exception, in the history of the state (3rd an. rep. Com'r of Stat. *Exec. Doc.*, 1859, I, 767). The following table shows the crops in millions of bushels:

1849.....	14.4 bu.	1854.....	11.8 bu.
1850.....	31.0 bu.	1855.....	10.5 bu.
1851.....	25.3 bu.	1856.....	15.3 bu.
1852.....	22.0 bu.	1857.....	25.3 bu.
1853.....	17.1 bu.	1858.....	17.0 bu.

No year [wrote the governor<sup>120</sup>] since the organization of the state government, has been more conspicuously distinguished by substantial increase in all the elements of real wealth, permanent power, and true greatness.

The panic affected Ohio but slightly, and though the suspension of specie payments was general in the eastern states, not a bank in the Ohio valley found it necessary to resort to this expedient. The state was still predominantly agricultural, probably four-fifths of the total population being engaged in farming.<sup>121</sup> Practically all of the 25,776,960 acres of land in the state had now been reduced to private ownership, and was in the hands of 270,000 proprietors, exclusive of the owners of town lots, each cultivator holding on an average about 90 acres.

During this period a new plant, sorghum, was introduced into Ohio, probably about 1852. By 1857 the practicability of its culture had been fully demonstrated, an event of which the governor said "no single fact . . . is probably of greater importance".<sup>122</sup> It is interesting to note in passing that this was the only commercially important plant introduced into the United States during the century after the adoption of the Constitution.<sup>123</sup> An exaggerated idea of the importance of this plant as a substitute for sugar cane was entertained at first and considerable land was planted with it; and an especial impetus was given to its culture by the Civil War, which cut off the southern supply of sugar. The statistics of production were given for the first time in 1863, and by 1866 the production of both sugar and molasses had doubled, the product for this year being 55,147 pounds of sugar and 4,696,089 gallons of molasses, which sold for 75 cents a gallon. The culture of the plant was similar to that of corn, and the yield was about 75 dollars an acre.<sup>124</sup> The number of acres planted with sorghum was 46,239 in 1866, but de-

<sup>120</sup>Gov. Mess. Jan. 4, 1858, *Exec. Doc.*, 1857, I, 347.

<sup>121</sup>Gov. Mess. Jan. 6, 1862. *Exec. Doc.*, 1861, I, 333.

<sup>122</sup>Gov. Mess. *Exec. Doc.*, 1857, I, 349.

<sup>123</sup>See my *Economic History of the United States*, p. 67.

<sup>124</sup>Rep. Com'r of Statistics. *Exec. Doc.*, 1867, I, 940.

clined after that until the crop became negligible and dropped out of the reports.

During the twenty-year period from 1840 to 1860 there was a rapid filling up of the middle states east of the Mississippi; as most of the settlers took up land the production of agricultural commodities was greatly stimulated. Even more important were the improvements in agricultural machinery, which economized the labor needed and permitted an expansion otherwise impossible; and in transportation facilities, which made it profitable to market the increased production. The aggregate of all cereal crops, including potatoes, was as follows: 1839—71,464,603 bushels; 1849—92,945,164 bushels; 1859—152,349,155 bushels. This increase was nearly double the ratio of increase in the population. The total products of Ohio in 1857 were put at \$261,867,500, and the exports from the state at \$70,000,000, leaving \$191,867,500 worth of domestic commodities to be consumed at home.<sup>125</sup> Three years later it was estimated that Ohio raised breadstuffs enough, in addition to feeding domestic animals, for ten millions of people, or four times her actual population.<sup>126</sup> At the same time the prices received for the crops were good.<sup>127</sup>

The proportion of the population and of the capital in the state engaged in mining, mechanical and manufacturing industries was rapidly increasing. In his annual message for 1856 the governor warns the legislature that the financial burdens of the state be not permitted to press, in disproportioned measure, upon them. These pursuits of industry supply a great

<sup>125</sup>*Exec. Doc.*, 1857, I, 351.

<sup>126</sup>*Gov. Mess. Exec. Doc.*, 1861, I, 333.

<sup>127</sup>A comparison of prices received by the farmer for his crops and paid by him for his purchases shows a great improvement in his economic well-being during the previous thirty years (*Rep. of Com'r of Stat. Exec. Doc.*, 1859, I, 789):

YEAR.	PRICES.			
	WHEAT.	CORN.	SUGAR.	COFFEE.
1820. . . . .	\$ .50 per bu.	\$ .25 per bu.	\$ .09 per lb.	\$ .15 per lb.
1858. . . . .	1.03 per bu.	.70 per bu.	.07 $\frac{3}{4}$ per lb.	.12 per lb.

market, constantly becoming greater, for the productions of agriculture.<sup>128</sup> He also called attention to the growing importance of railroads in Ohio—

among the instrumentalities by means of which intercourse is carried on between different parts of the state and different sections of the country, railroads may now be regarded as the most important.<sup>129</sup>

In other lines of material development, Ohio's progress was even more marked during this period than in agriculture. As early as 1854 Ohio had more miles of railroad in operation than any other state in the Union, namely 2367; by 1857 the mileage had grown to 2844, built at an estimated cost of \$90,000,000.<sup>130</sup> Of 352 vessels built in 1856 on the waters of the west, 97 boats with a tonnage of 29,636 tons were built in Ohio.<sup>131</sup> The improvement and cheapening of transportation indicated by this growth made possible a rapid development in mining and manufactures. Between 1840 and 1860 there was an extraordinary expansion in the mining of coal and iron, which increased more rapidly than agriculture or population. Coal as a fuel was coming more and more into use, while the use of it for driving machinery was also fast increasing; there was also a growing exportation of coal to the upper lakes, to Canada, and down the Mississippi.<sup>132</sup> The most noteworthy advance in manufactures had been in the production of salt, iron, wood, and distilled liquors, all closely related to the extractive industries. The following table presents some of these facts concisely:<sup>133</sup>

Year	Iron furnaces	Pig iron		Coal		Salt	
		tons	value	bu.	value	bu.	value
1840	19	29,959	\$ 648,975	3,513,400	\$ 286,000	297,310	\$ 89,205
1860	59	105,500	3,171,000	50,000,000	5,000,000	2,000,000	500,000

<sup>128</sup>*Exec. Doc.*, 1856, Part I, Doc. No. 10, p. 435.

<sup>129</sup>*Ibid.*

<sup>130</sup>Gov. Mess. *Exec. Doc.*, 1857, I, 351.

<sup>131</sup>1st an. rep. Com'r of Stat. *Exec. Doc.*, 1857, II, 517. In 1846 the number was 52, with a tonnage of 9616.

<sup>132</sup>3rd an. rep. Com'r of Stat. *Exec. Doc.*, 1859, I, 787.

<sup>133</sup>Gov. Mess., Jan. 6, 1862. *Exec. Doc.*, 1861, I, 333. The increase in the production of coal was stated by the commissioner of statistics to have been as follows: 1840—3,513,409 bu.; 1850—8,000,000 bu.; 1857—46,100,000 bu. 3rd an. rep. *Exec. Doc.*, 1859, I, 787.



Indeed the growth of the state in population and resources during the decade 1850-60 was marvelous. The states between the Alleghanies and the Mississippi River entered upon an era of extraordinarily rapid railroad construction during this decade. Chicago was connected with New York City in 1853, and the following year the Mississippi was reached. Ohio probably profited as largely as any other state as a result of these improvements in the means of transportation, as it was the thoroughfare for all the through movements of freight. The price of practically all agricultural products was increased when the outlet on the seaboard was made cheaper and easier, and the value of farm lands went up at the same time that the yield increased. Some statistics taken from the census reports show a wonderful development for this period.<sup>134</sup>

PERCENTAGE OF INCREASE, 1850-60.

Population .....	18	Manufacturing, Mining and	
Grain crops.....	50	Mechanical industries.....	90
Pig iron.....	100	Railroads .....	700
Coal mined.....	600	Cash value all property.....	75
Manufactures proper.....	112		

Two or three isolated and disconnected facts call for mention at this point. The constitution of 1851 had provided for biennial sessions of the general assembly, but that body had evaded the constitutional requirement by holding regular sessions during the even and adjourned sessions in the odd years. In 1855 the legislature did not meet, but this was the only year in which they did not hold a session until 1895, when biennial sessions were made an actual as well as a legal fact. There was a steady growth in the numbers and importance of the German element in the population, many immigrants of this nationality having found their way to Ohio, where they had bought up the supposedly deteriorated farms from their former careless owners. They were now sufficiently numerous to secure the translation and printing in German of various public

<sup>134</sup>Quoted by Gov. Chase in his message of Jan. 7, 1861.



documents;<sup>135</sup> the establishment of German schools was also authorized in Akron, a strong German settlement, and such other places as wished them.<sup>136</sup> The canals showed a deficit over and above their expenses of operation after 1856, and partly owing to this fact, and partly owing to public dissatisfaction with the manner in which they had been administered, a movement began for their sale or lease. Finally, in 1861, they were leased for a period of ten years, at an annual rental of \$20,075.<sup>137</sup> For almost twenty years after this the canals practically cease to figure in the legislative annals.

#### SLAVERY AND CIVIL WAR.

There is clearly perceptible during this period a growing friction over the problem of slavery and the presence of free negroes in Ohio. Slavery had been forbidden in the state, but at the same time measures were taken to prevent the immigration of free blacks.<sup>138</sup> By reason of her position Ohio had developed a very profitable trade down the Ohio and Mississippi rivers with the southern states. Many of her citizens looked with favor upon slavery, though they did not wish to see it introduced into the state; this was particularly true of the southern counties and of Cincinnati, between which and the South the economic ties were especially close.

As a state it is our interest, in Ohio [wrote Caleb Atwater in 1838<sup>139</sup>], to leave slavery in the slave-holding states for a century yet, otherwise our growth would be checked. The broad and deep streams of wealth, numbers, enterprise, youth and vigor of the slave-holding states, now rolling into Ohio like mighty floods, would be stayed.

In order not to lose their profitable trade and to retain the goodwill of the south during the growing bitterness of the slavery controversy, the people of Ohio, in legislature,

<sup>135</sup> Act of March 24, 1860. 57 *O. L.* 92.

<sup>136</sup> Act of April 12, 1861.

<sup>137</sup> Act of May 8, 1861.

<sup>138</sup> R. E. Chaddock, *Ohio before 1850*, p. 82.

<sup>139</sup> *History of Ohio*, p. 331.

press, and public meetings endeavored to suppress the abolition movement in Ohio, and declared in favor of letting the slave-holding states settle the problem for themselves. The passage of the national fugitive slave law, however, injected the question into Ohio politics and aroused the people to take sides in the slavery controversy. The influence of the southern members is evident in the repeal by the general assembly in 1859 of various acts prohibiting slave-holding and kidnapping in Ohio, though such laws would seem to have been superfluous in view of the provisions of the Northwest ordinance. Governor Chase, an anti-slavery Republican, in his next message urged the re-enactment of these laws because of the growing practice of seizing free persons, without process of law, under guise of their being fugitive slaves.<sup>140</sup> Before any further legislation was enacted the outbreak of war rendered it useless.

With the actual outbreak of the Civil War Ohio proved herself thoroughly loyal, and was among the first states to rally to the support of the federal government. Within a week after Fort Sumter was fired on, the legislature made generous provision for calling out and equipping the militia. For arms and equipment \$450,000 was appropriated; \$500,000 additional to be expended by the governor to carry into effect any requisition of the president of the United States; and \$50,000 as an extraordinary contingent fund under the control of the governor.<sup>141</sup> To raise this money a loan of \$750,000 was authorized by the same act. Fortunately, the condition of the treasury was exceptionally strong. "The finances of the state have not, for several years," reported the auditor,<sup>142</sup> "been in as good a condition as they are at this time". To meet military expenses the commissioners of the sinking fund in 1861 borrowed and paid into the state treasury \$1,212,134, which, with \$345,000 refunded by the United States

<sup>140</sup>*Exec. Doc.*, 1859, II, 59.

<sup>141</sup>Act of April 18, 1861. 58 *O. L.* 89.

<sup>142</sup>*Aud. rep.*, Dec. 27, 1861. *Exec. Doc.*, 1861, II, 30.

and some small sums in addition, constituted the "military fund", which was drawn against for military purposes exclusively. Other funds were also established during the war, such as the soldiers' allotment fund, the soldiers' relief fund, etc., which make a clear understanding of the war finances difficult. Upon the conclusion of the war the auditor reported that the expenditures of the state for military purposes during the four years, 1861-65, was \$10,410,239.<sup>143</sup>

In addition to this direct outlay the state also contributed its share to the federal treasury by its assumption of the direct tax of \$1,587,089, which had been imposed by Congress by act of August 5, 1861. By prompt payment of this tax Ohio secured a reduction of 15 per cent. To raise the necessary money for this purpose, an additional levy of  $1\frac{3}{4}$  mills was added to the general property tax.<sup>144</sup> But in spite of this addition to the tax rate, the total burden of taxation was but slightly increased because of great economies effected in both state and local expenditure. The taxes too were unusually productive. Under the stimulus of patriotism, taxes were paid promptly and without complaint, while the delinquencies were never so small: in 1861 the collections amounted to 99 $\frac{1}{8}$  per cent. and in 1862 to 99 per cent.<sup>145</sup> The taxable valuation of property in the state increased in 1863 over 1862 by \$47,085,952. At the same time the debt was being paid off more rapidly than at any other time in the history of the state.

But Ohio's loyalty was shown not merely by her contribution of money, but even more by the number of men she sent into the field. On December 31, 1861, there were 100,224 men enlisted in Ohio for the Civil War, of whom 77,844 were for three years and the others for three months.<sup>146</sup> A year later the total number of Ohio men

<sup>143</sup>Aud. rep. *Exec. Doc.*, 1865, I, 329.

<sup>144</sup>Act of April 16, 1862. *O. L.*, p. 52.

<sup>145</sup>Aud. rep. *Exec. Doc.*, 1863, I, 54.

<sup>146</sup>Rep. of Adj. Gen. *Exec. Doc.*, 1861, II, 164.

enlisted in the state organization was 170,121, in addition to whom there were many men in the regular army and navy, as well as in regiments mustered in neighboring states, such as Indiana and Illinois.<sup>147</sup> In 1863 an act was passed "to organize and discipline the militia of Ohio", requiring all white males between 18 and 45 years of age to perform military duty.<sup>148</sup> At the end of the war the adjutant general reported that Ohio had sent 310,650 men to war, or 10,811 more than her quota under various calls.<sup>149</sup> This was considerably more than half the number of able-bodied men between the ages of 18 and 60, who were estimated at 554,857 on December 1, 1864.<sup>150</sup>

#### LABOR, IMMIGRATION AND INDUSTRY.

The effect of this wholesale withdrawal of the active laborers of the community was gradually manifest in the agricultural and industrial operations. Up to the summer of 1863, the war had produced no sensible effect on the market for labor. Labor was abundant in this state, and she had sent out 100,000 laborers before the diminution began to be sensibly felt in the operations of farming. One great reason for this was the introduction of agricultural machinery. The reaper, mower, thresher, etc., were doing in Ohio the work of 50,000 men.

Notwithstanding this, in 1863 the want of labor was seriously felt, and in 1864 the harvesting could not be got through with without the aid of female hands in many places, and in some it was scarcely done at all.<sup>151</sup>

As a result of the scarcity of labor, there was a falling off in the cultivated land of Ohio to the extent of more than 700,000 acres between 1862 and 1864.<sup>152</sup> The cereal

<sup>147</sup>Rep. of Adj. Gen. *Exec. Doc.*, 1862, II, 418.

<sup>148</sup>Act of April 14, 1863, *O. L.* 1863, p. 97.

<sup>149</sup>*Exec. Doc.*, 1866, I, 30.

<sup>150</sup>Rep. Com'r of Stat. *Exec. Doc.*, 1864, I, 755.

<sup>151</sup>8th an. Rep. Com'r of Stat. *Exec. Doc.*, 1864, I, 730.

<sup>152</sup>9th an. rep. Com'r of Stat. *Exec. Doc.*, 1865, II, 922.



crops were diminished somewhat in amount in 1862 and 1863 owing to drought, but the value was greater than in previous years; in subsequent years the scarcity of labor was the chief factor in reducing the output.

The agriculture of the state was developing during the war period, and a more serious loss was prevented by the introduction of various improvements, especially agricultural machinery. The commissioner of statistics enumerated the following causes of advance:<sup>153</sup> the introduction of agricultural machinery, drainage and manures, the introduction of new plants, such as Hungarian grass, sorghum, the vine, and other fruits, deep plowing, and the spirited efforts of agricultural societies.<sup>154</sup> The diversification of crops and changes in methods of culture were evidence of the increasing competition of the newer states in the growing of the great staple crops of corn and wheat. The production of these had practically reached their limits in Ohio, and were now being displaced or supplemented by crops requiring more intensive cultivation. The culture of flax, clover seed, potatoes, fruit, sorghum, and tobacco were all increasing. This was the same process that had taken place in all the older states as they had grown populous; New England, New York, and New Jersey had all been declining in the production of grain for many years. In 1866 there were 1,295,530 acres in the state planted in wheat, or almost half a million less than in 1850; the crop was almost a total failure, yielding only 5,824,747 bushels, or one-sixth of the yield in 1850. On the other hand the corn crop was a good one and showed an increase over earlier years.<sup>155</sup>

In 1863 a commissioner of immigration was appointed and for the few years the office remained in existence some

<sup>153</sup>*Exec. Doc.*, 1863, I, 606.

<sup>154</sup>Ohio received in 1864 a grant of land for agricultural education, under the Morrill act of July 2, 1862, amounting to 630,000 acres. As the amount of good land in Ohio open to entry was only 80 acres at that time, she received this in land scrip, which entitled her to locate that amount elsewhere in the public domain.

<sup>155</sup>*Rep. Com'r of Stat. Exec. Doc.*, 1867, I, 932.



interesting information on this subject was collected. As no salary was provided for the commissioner, nor provision made for his going outside the state and soliciting immigrants,<sup>156</sup> the purpose of the legislature in establishing this office could not have been very serious. The first incumbent of the office, however, Benno Speyer, a German American, took his appointment very seriously, and visited Europe at his "own exclusive expense" for the purpose of disseminating information as to the advantages Ohio offered the immigrant.<sup>157</sup> In Europe he distributed pamphlets and information, chiefly in Germany, where he encountered some opposition from agents working in the interests of Brazil and Canada, and also of New York, Illinois, and Missouri. The two latter states had especially favorable laws for immigrants, and attracted a great many. In 1868, of 32,620 immigrants who passed through Ohio, 3757 remained in the state; the greatest number, 7314, went to Missouri, while 5725 went to Illinois. The following year California passed laws to induce immigration, and began to attract an increasing number. During the four calendar years 1863-66 the number of immigrants to Ohio was as follows: 1863, 6574; 1864, 8782; 1865, 10,383; 1866, 15,000.<sup>158</sup> The Germans constituted over two thirds of the total number, with English and Irish ranking next in importance.<sup>159</sup>

A new industry of great importance in the state of Ohio was born with the discovery of petroleum in 1859. The first official recognition of this industry in the laws was in the act of May 1, 1862,<sup>160</sup> providing for "inspectors of petroleum oil". The general assembly raised the pay of its own members in 1866 to \$5 a day and \$3 mileage for every 25 miles traveled to or from home to the state capital.

<sup>156</sup> Act of April 14, 1863.

<sup>157</sup> 1st an. rep. Com'r of Immigration, Oct. 12, 1863. *Exec. Doc.*, 1863, II, 799.

<sup>158</sup> Rep. Com'r of Immig. *Exec. Doc.*, 1866, I, 310.

<sup>159</sup> Rep. Com'r of Emigration. *Exec. Doc.*, 1868, II, 878. The name of the office was changed this year—why, it is difficult to see.

<sup>160</sup> *O. L.*, 1862, p. 84.

and also increased the salary of the governor to \$4000.<sup>161</sup> In view of the general rise of prices and the growth of the state these payments were still very modest. In 1868 the legislature abolished the office of commissioner of statistics, but created a bureau of statistics in the office of the secretary of state and directed that officer to make an annual statistical report.<sup>162</sup> This was done very perfunctorily for a few years, when it was finally entirely discontinued. For the student of the economic or social history of Ohio the excellent reports of the commissioner of statistics constituted a storehouse of material, and their discontinuance is much to be regretted.

The legal rate of interest was fixed at 8 per cent in 1869. As the interest rate indicates the opportunities for profitable investment, and throws some light upon the supply of capital in a community, it will be of interest to trace the changes from the beginning. By the act of November 15, 1799, the legal rate of interest had originally been fixed at 6 per cent. The first state act was that of December 29, 1804, which stated that

interest on bond, bill, promissory note or other instrument in writing . . . . on all judgments . . . . and on all decrees . . . . [should be] at the rate of 6 per cent. and no more, and if any person shall demand or receive more than 6 per cent. per annum . . . . that person shall forfeit the whole amount of the debt on which such illegal interest was charged and received.<sup>163</sup>

In 1824 this was re-enacted, but the penalty clause was omitted.<sup>164</sup> By act of March 14, 1850, the maximum legal rate of interest was fixed at 10 per cent; but at 6 per cent if there were no stipulation to the contrary.<sup>165</sup> Governor Chase urged the repeal of this law and the reduction of the

<sup>161</sup>Act of April 2, 1866. *O. L.*, 1866, p. 65. Gov. Tod had urged an increase of 50 per cent. in the salaries of state officers, in his message of Jan. 4, 1864, p. 3.

<sup>162</sup>Act of April 17, 1868. The first statistical report of the secretary of state is in *Exec. Doc.*, 1868, I, 297.

<sup>163</sup>*O. L.*, 1804-05, p. 149.

<sup>164</sup>*O. L.*, 1824, p. 108.

<sup>165</sup>*O. L.*, 1850, p. 87.

maximum rate.<sup>166</sup> On the other hand the auditor advocated raising the legal rate, where no stipulation existed, to 10 per cent: "Ohio capitalists are to a large extent investing in New York, where the rate of interest is 7 per cent and in Illinois and other western and northwestern states, where the rates are still higher."<sup>167</sup> In 1869 it was provided that the rate of interest on any bond, bill, promissory note, or other instrument in writing, should not exceed 8 per cent; on all judgments, decrees, etc., where no stipulation was made, it should not exceed 6 per cent.<sup>168</sup> This law is still in force.<sup>169</sup>

After the Civil War the finances of the state as well as the industrial life of the people returned very speedily to normal conditions again.<sup>170</sup> The cessation of the extraordinary war expenditures enabled the legislature in 1867 greatly to reduce appropriations and to lower the tax rate, making a saving over the previous year of about \$3,000,000.<sup>171</sup> The auditor thought \$500,000 more could be spared, and urged economy and the cutting down of unnecessary expenses.<sup>172</sup> The following year he pointed out the alarming growth of taxation, especially for local purposes, the aggregate of taxes for 1867 being greater than for any year during the war.<sup>173</sup> Two years later he spoke of the "frightful rate" at which taxes had increased in Ohio during the past twenty years, the largest proportion of which came from expenditures for benevolent institutions, and also for the judicial and legislative depart-

<sup>166</sup>Gov. Mess., Jan. 3, 1859. *Exec. Doc.*, 1858, II, 104.

<sup>167</sup>Aud. rep. *Exec. Doc.*, 1866, I, 149. He repeated this appeal, with additional arguments in 1867 and 1868. *Exec. Doc.*, 1867, I, 64; 1868, I, 86.

<sup>168</sup>Act of May 4, 1869. *O. L.*, 1869, p. 91.

<sup>169</sup>Bate's *Annot. Stat.*, § 3179-83.

<sup>170</sup>The governor wrote on Jan. 3, 1865, "the machinery of the state government has worked so smoothly under existing legislation, that I have few recommendations as to modifications". *Exec. Doc.*, 1864, I, 47.

<sup>171</sup>Gov. Mess., Jan. 6, 1868. *Exec. Doc.*, 1867, I, 147.

<sup>172</sup>Aud. rep., Dec. 12, 1868, p. 94.

<sup>173</sup>Aud. rep. *Exec. Doc.*, 1869, I, 379.

ments.<sup>171</sup> The panic of 1873 affected Ohio in common with the rest of the country and made the high taxes prevailing especially burdensome. Economy was urged upon the legislature by Governor Allen in 1874,<sup>172</sup> and repeated the two following years.

In 1871 Ohio was surpassed in wheat production only by Illinois, but the following year a poor crop pushed Ohio down into seventh place. The crops of 1873 and 1874 were normal and Ohio in these years held fifth and fourth places respectively. The center of wheat production was moving steadily to the northwest and the great wheat states of Minnesota, Wisconsin, Iowa, and California were taking the lead. In Ohio, on the other hand, the number of acres in wheat was steadily declining; from 1,667,659 acres in 1871 they fell to 1,354,569 in 1877. The rank of the principal wheat producing states in the years 1871-4 was as follows (the number in brackets beside Ohio indicates the crop in millions of bushels): 1871, Illinois, Ohio (22.2), Pennsylvania, Indiana, Wisconsin, Iowa; 1872, California, Illinois, Minnesota, Wisconsin, Iowa, Indiana, Ohio (18.0); 1873, Iowa, Illinois, Minnesota, Wisconsin, Ohio (21.9); 1874, Iowa, Illinois, California, Ohio (26.8).<sup>173</sup> In the business of pork packing, too, Ohio had now lost her pre-eminence to Illinois, and the business was moreover declining from year to year. Between the years 1873-4 and 1874-5 there was a decrease in the number of hogs slaughtered in Ohio of 25,891 and an increase of those in Illinois of 233,915.<sup>174</sup>

Ohio was now no longer predominantly an agricultural state; manufacturing and mining and commercial pursuits absorbed an increasing proportion of the labor and capital in the state. Unpleasant evidence of this fact was given by the riots in Cincinnati and in the Hocking Valley, and by

<sup>171</sup>Aud. rep., Dec. 15, 1871, p. 200.

<sup>172</sup>Gov. Mess. *Exec. Doc.*, 1874, I, 11.

<sup>173</sup>Stat. rep., Sec. of Stat. *Exec. Doc.*, 1872, I, 149; 1874, II, 297; 1875, I, 548.

<sup>174</sup>Stat. rep., Sec. of State. *Exec. Doc.*, 1875, I, 605.



the great strikes of May, 1886. Business of every kind was then suffering from the industrial depression of 1884 and the subsequent years. Many of the most important industries were suspended and thousands of laborers were without employment. By 1889 general prosperity had returned and the governor was able to congratulate the legislature upon the improved conditions both of the people and of the state treasury.<sup>178</sup>

On Washington's Birthday, 1887, the legislature repealed the so-called "Black Laws", which had provided for separate schools for colored children and prescribed penalties for the intermarriage of white and colored persons.<sup>179</sup>

Beginning with the year 1893 Ohio entered upon the policy of deriving a larger state revenue from corporations, especially those engaged in transportation and communication, and leaving the general property tax, particularly the tax on realty, to the local governments for local purposes. The segregation of the sources of revenue for state and local purposes has since been carried almost to complete realization. In 1903 the state debt was finally expunged, seventy-eight years after its first creation. At the same time the canals, to build which the debt was chiefly incurred, were rescued from the decay into which they were falling, and increased appropriations were made to repair and improve them.

In conclusion we may briefly characterize Ohio's industrial position at the beginning of the twentieth century. Between 1850 and 1905 the number of industrial establishments in Ohio has increased from 10,622 to 13,785; the capital from \$29,000,000 to \$857,000,000; and the average number of wage-earners from 51,491 to 364,298.<sup>180</sup> There has been a large growth in the manufacturing and mechanical industries of the state during the past half century, and the population has steadily become more industrial

<sup>178</sup>Gov. Mess. *Exec. Doc.*, 1889, I, iii.

<sup>179</sup>Act of Feb. 22, 1887. *O. L.*, 1887, p. 34. This act repealed sec. 4008, 6987, and 6988 of the Rev. Stat.

<sup>180</sup>*Census of Manufactures*: 1905. *Ohio*. Bulletin 58.



and less agricultural. Of the various causes which have contributed to the early development and steady progress of manufacturing in Ohio, the great commercial advantages of the state are undoubtedly the most important. Water communication, by lake, river, or canal has always been excellent, and this was early supplemented by the building of railroads. The effect of the water routes is clearly seen in the localization of some of the great manufacturing centers on them. Among the natural resources of Ohio are a fertile soil, extensive hard-wood forests, and an abundance of coal and natural gas, though the last has been nearly exhausted by now. Waterpower is not very extensive.

Of the industrial establishments in Ohio in 1905, 48 per cent were owned by individuals, 22 per cent by firms, 29 per cent by corporations, and 1 per cent were miscellaneous. Thirty-five per cent had capitals of less than \$5000; 30 per cent of \$5000 to \$20,000; 23 per cent of \$20,000 to \$100,000; 11 per cent of \$100,000 to \$1,000,000; and 1 per cent of \$1,000,000 or over. From these figures it is evident that Ohio is still in the main the home of the comparatively small individual undertaking, though it must be said that the number of establishments declined slightly between 1900 and 1905, showing a movement towards concentration.

The manufacture of iron and steel is the most important industry in Ohio, and since 1870 the state has ranked next to Pennsylvania in the whole United States. In 1905 the value of the products was \$152,859,124. This is due to the presence or proximity of ore and fuel, as well as to her advantageous situation for the distribution of the finished products. Closely allied to this are the foundry and machine shop products, which rank second in Ohio, with a value in 1905 of \$94,507,691. Third in rank come flour and grist mill products, with a value of \$40,855,566; and fourth, slaughtering and meat packing, with products valued at \$26,380,884. These last two are more closely allied to agriculture than pure manufactures, and are due to the

large corn and wheat producing area in or near the state. After these come in order boots and shoes, malt liquors, cars and general shop construction, pottery and clay products (in the production of which Ohio ranks first in the United States), men's clothing, and lumber products. The census of manufactures enumerates forty selected industries, but it will not be necessary to continue the list in order to show the character of the chief industries in Ohio.

## CHAPTER II

### RECEIPTS AND EXPENDITURES.

#### EARLY PERIOD, 1803-1824.

The early accounts of the finances of Ohio are very meager and present no detailed information as to receipts and expenditures. Detailed statements of the revenues were not printed in the auditors' reports until 1814, and those of expenditure not until 1822, with the exception of two isolated statements, one for the year 1803 and the other for 1813. As a matter of interest these two are here given in detail, after combining some of the scattered items; for purposes of comparison the territorial budget for 1799 is also given. The act of April 16, 1803,<sup>1</sup> appropriating these sums, was the first appropriation bill passed after the state was admitted to the Union.

#### APPROPRIATIONS FOR 1799, 1803, AND 1813<sup>2</sup>

ITEM	1799	1803	1813
Contingent fund <sup>3</sup> .....	\$ 5,000	\$10,950	\$ 2,034
Governor .....	500	} 7,350 <sup>5</sup>	1,112 <sup>6</sup>
Secretary <sup>4</sup> .....	50		500
Judges .....	250		6,400 <sup>7</sup>
Attorney general.....	400		....
Treasurer .....	400		500
Auditor .....	450	} 6,000	1,900
Members of legislature .....	12,000		12,626
Special Agent to Congress ...	....	582	1,024 <sup>8</sup>
Distribution of laws .....	....	100	830
Listers of land .....	2,000	....	1,229 <sup>9</sup>
Military .....	....	....	3,748 <sup>10</sup>
Interest and rent.....	1,230	....	84
Printing .....	678	548	1,727
Furniture and repairs .....	24	81	....
Stationery, postage, and fuel..	111	116	597
Wolf bounties .....	....	....	3,940
Auditor's office .....	....	36	212
Miscellaneous .....	309	....	122

<sup>1</sup>Chase, II, 377.

<sup>2</sup>Acts of Dec. 19, 1799, and April 16, 1803. Rep. of Joint Com. of Finance, *Ho. J.*, 1814, p. 144. Similar appropriation acts were passed on Dec. 9, 1800; Jan. 23, 1802; Feb. 18, 1804. The members of the legisla-

Even such totals as were printed in the legislative journals are not very reliable, and do not agree with one another from year to year.<sup>11</sup> No regular record was kept of warrants issued prior to the year 1803, but during the six years ending November 10, 1805, it appeared that \$88,693 of warrants had been redeemed. From the fact that more warrants were redeemed than were drawn during the year 1806, there appears to have been a deficit on November 10, 1805, of upwards of \$9000. The first few legislatures were compelled to resort to the issue of treasury warrants in excess of the available receipts, in anticipation of taxes, because of the difficulty of getting

ture must have been very dependent on their pay to meet their expenses, for on Jan. 16, 1804, they passed what might be called an "emergency appropriation" of \$4000 for part payment of the "wages of members and officers of members of the general assembly"; it was the third act of the session. On Dec. 27, 1804, they again appropriated \$4,400 for this purpose at the opening of the session.

<sup>3</sup>The contingent fund was placed at the disposal of the governor to be expended by him. That for 1799 included items for printing, clerk hire, copying land entries, etc.; that for 1803, the payment of members of the constitutional convention, the distribution of the laws of the state, the pay of members of the legislature, printing, the state seal, stationary [*sic*], etc.

<sup>4</sup>In 1799 this item was for the governor's secretary; at the other dates for secretary of state.

<sup>5</sup>There were included under this single item the salaries of governor, judges of the supreme court, presidents of the courts of common pleas, secretary of state, auditor, and treasurer.

<sup>6</sup>Salary of governor, \$900; clerk hire, \$212.

<sup>7</sup>There were three judges of the supreme court at \$1000 each; four president judges of the courts of common pleas at \$850 each.

<sup>8</sup>Compensation to federal electors.

<sup>9</sup>Compensation to town director, \$503; refund of tax improperly collected, \$726.

<sup>10</sup>Compensation to adjutant general and inspectors of brigade, \$1027; to provide blankets, etc., for the Ohio militia, \$2721.

<sup>11</sup>In view of this fact reliance has been placed in this study on a table prepared in 1825 by a committee of audit, although the figures differ slightly from those given in the auditor's and treasurer's annual reports, which in turn do not agree with one another. Table in *Ho. J.*, 1825, pp. 16-20.

the tax machinery quickly in running order. The lack of specie, too, rendered it difficult to make the necessary payments on the part of the treasury and to collect the revenue. The auditor was therefore required to issue treasury warrants for \$20, \$10, and \$5, payable at the treasury, and bearing interest.<sup>12</sup> These warrants went into circulation and served the double purpose of maintaining the credit of the state and of supplying the lack of currency.<sup>13</sup> By 1805, however, the governor was able to congratulate the legislature on the increased revenue "sufficient to justify, after this year, a cessation of issuing paper, which, at our first essay towards self-government, the legislature were compelled to resort to."<sup>14</sup>

In 1808 excessive appropriations again left some \$4000 of unredeemed treasury warrants in circulation.<sup>15</sup> The following year a loan of \$9000 was made from the three per cent. fund, thus avoiding a deficit of that amount. This was the first occasion on which was practiced that method of transferring money from one fund to another, which was later to prove such a source of confusion and even deception in Ohio finance. The "loan" was repaid the following year with interest, leaving the treasury with a nominal deficit of \$290 but with unredeemed warrants outstanding of over \$12,000. A reduction in appropriations and an increase in revenue sufficed to wipe out this deficit the next year, and by 1812 a surplus of over \$8000 stood in the treasury. In his report for the next year the auditor recommended,<sup>16</sup> in view of the "prosperous situation of our finances", that the method of drawing treasury warrants in small amounts with interest be discontinued and that instead a single warrant be drawn for each separate account without interest. This was done, though the

<sup>12</sup>E.g. Act of Feb. 18, 1809, § 2.

<sup>13</sup>Aud. rep. *Ho. J.*, 1813, p. 24.

<sup>14</sup>Gov. Mess. *Ho. J.*, 1805-6, p. 14.

<sup>15</sup>The calculations in the report of the auditing committee of 1825, which state a deficit of \$9000 for this year, are evidently in error.

<sup>16</sup>Aud. rep. *Ho. J.*, 1813, p. 24.



act stated that the person to whom it was due must agree to accept a single warrant for the whole sum.<sup>17</sup> A "moderate reduction of the present burdensome rate of taxation" was also urged.<sup>18</sup>

Before this suggestion could be acted upon, however, the breaking out of the War of 1812 necessitated a resort to heavier taxation and to a policy of loans in addition. The war spirit ran high in Ohio, and considerable was spent directly in arming and equipping troops to take part in the struggle. Thus \$4000 was appropriated to purchase blankets for the Ohio militia, in the service of the United States, and \$40,000 for the purpose of paying bounties of \$12 a month to the members of the militia who continued under the command of William H. Harrison.<sup>19</sup> The federal government also levied upon the states. To meet, partially at least, the expenses of the war, a direct tax of \$3,000,000 was laid upon the states, of which Ohio's quota was \$104,150. This tax was apportioned among the states on the basis of the census returns of population of 1810, and within each state it was even apportioned among the counties. The option was given the state, however, of assuming the whole amount apportioned to it, and in order to ensure prompt payment a discount of 15 per cent. was granted if paid before February 10, 1814. Ohio willingly assumed her quota and by act of December 20, 1813, appropriated \$88,528 for that purpose, having saved the difference by her early action.<sup>20</sup> To raise this sum, the surplus of \$26,000 was used, together with the proceeds of a loan of \$55,000 for one year at 6 per cent. from the banks of Chillicothe and the Miami Exporting Company.<sup>21</sup>

In the year 1814 the auditor's report for the first time states the sources from which the revenue was derived, from which we see that \$62,000 was obtained from the tax

<sup>17</sup>Act of Feb. 19, 1813.

<sup>18</sup>*Ho. J.*, 1812, p. 24; *Sen. J.*, 1812, p. 21.

<sup>19</sup>Acts of Dec. 19, 1812; Feb. 2, 1813. Chase's *Statutes*, II, 784, 793.

<sup>20</sup>Rep. of Com. on Direct Tax, *Ho. J.*, 1814, p. 51.

<sup>21</sup>*Ibid.*, p. 142. Act of Dec. 20, 1813.

on land.<sup>22</sup> As the ordinary expenses of the state government for the past six years had averaged less than \$35,000 a year, the state's finances were in a strong position. In 1814 Congress levied a second direct tax of \$6,000,000, which was made annual; Ohio's quota was \$208,300. Again the state accepted the burden promptly and almost eagerly,<sup>23</sup> securing the discount offered by her prompt payment. The reduced amount of the tax was \$177,055, which was met by a loan of \$104,000 and by the appropriation of a surplus of \$25,000 and of current revenues to the amount of \$30,000.<sup>24</sup> To provide the means for meeting these enlarged expenditures, the joint committee of finance of the general assembly recommended an addition of 75 per cent. to the present land tax, a tax on bank stock, and a tax on processes and proceedings in law and equity.<sup>25</sup> These suggestions were adopted, and as a result the taxes on land increased from \$62,000 in 1814 to \$201,000 in 1816. The tax on processes and proceedings in court was trifling, and was repealed three years later, but the 4 per cent. tax on the dividends of bankers brought over \$5000 into the treasury in 1816. It is interesting to note that these were the first state taxes, other than those on land, levied in Ohio. In 1816, however, the system of bank taxation was changed, and the plan was adopted of having each bank give the state one share in every twenty-five in lieu of taxes. After 1817 the effect of this plan is apparent in the decline of the revenues from this source.

The United States direct tax of 1816 was \$3,000,000, and for the third time Ohio met her quota promptly, and

<sup>22</sup>No figures are given in the auditor's report for 1815, so details as to receipts for that year are lacking. The total amount is given in the report of the Com. of Audit of 1825. *Ho. J.*, 1825, p. 16.

<sup>23</sup>"From a full persuasion that it will operate materially to aid the general government in its operations". Rep. of Com. of Finance, *Sen. J.*, 1815, p. 337.

<sup>24</sup>The act of Feb. 14, 1815, authorized a loan of \$155,000 for one year at 6 per cent., but the whole amount was not necessary.

<sup>25</sup>*Sen. J.*, 1815, p. 338.

thus secured the discount for early payment. This time the legislature did not wait for the tax to be assessed, but authorized a loan to the amount of \$200,000 for one year at 6 per cent;<sup>26</sup> the following year they authorized another similar loan "in case Congress should continue in force the direct tax";<sup>27</sup> but this was not needed, as no further requisitions were made upon the states. The revenue from the tax on land for 1816 was about \$200,000, and from banks about \$500; to make up the balance required, a third loan of only \$32,000 was necessary. In 1817 the land tax brought in \$162,000 and the tax on banks \$1250, or much more than was necessary for the ordinary expenses of government. Accordingly the auditor, in his report for 1817, estimating the available surplus at \$30,000, recommended a reduction in the rate of taxation to what it had been in 1814, which was done.<sup>28</sup> The legislature, after considerable discussion, voted to raise the per diem pay of its members from \$2.00 and mileage, at which it had stood since 1803, to \$3.00 per day.<sup>29</sup>

It is impossible to trace the financial operations of this period with any accuracy, for no information exists in the reports of any state officer or in the legislative proceedings to show how the loans made necessary at this time were paid. But from the fact that the receipts averaged over \$200,000 a year for the five years 1814-1818 or almost double what was necessary to pay the direct tax and to repay the loans, it is safe to assume that the loans did not run over one year each, and were immediately repaid out of the proceeds from the increased taxes.

During the year 1818 there was a general reduction in both revenue and expenditure and a return to normal conditions. The finances of the state were now "in a flourishing condition".<sup>30</sup> In 1819 there was a decided decrease in

<sup>26</sup>Act of Feb. 7, 1816.

<sup>27</sup>Act of Jan. 27, 1817.

<sup>28</sup>*Ho. J.*, 1818, p. 68.

<sup>29</sup>Act of Jan. 12, 1816. *Ho. J.*, 1825, p. 107.

<sup>30</sup>Gov. Mess. *Ho. J.*, 1819, p. 11.

the returns from the land tax, to \$75,000, and in total receipts to about \$100,000. In this year for the first time appear the receipts from the Ohio penitentiary. The year 1820 was marked by several events which united to plunge the state, which had successfully weathered the burden and stress of the War of 1812, into a deficit. The legislature first of all reduced the rate of taxation about 25 per cent. The death of the treasurer, H. M. Curry, revealed a defalcation in his accounts of \$11,112. And the report of a committee to investigate the condition of the treasury showed about \$20,000 in the treasury in depreciated bank notes, and paper, together with \$6,583 outstanding loans to individuals that had been authorized by the general assembly, none of which would be collectible under two years and probably not then.<sup>31</sup> Furthermore, there was owing to the state for back taxes, with interest and penalties, a sum not less than \$50,000. No arrears in taxes had been collected since 1816.

This all indicated very loose management of the finances. Down to 1816, during the incumbency of Benjamin Hough as auditor, the treasury had been economically and efficiently conducted; but his successor, R. M. Osborn, who was auditor from 1816 to 1830, was engaged in outside enterprises, paying little attention to the duties of his office, and not safe-guarding so carefully the finances of the state.<sup>32</sup> The receipts fell off for the year 1819 to \$101,000 and for 1820 to \$94,000, which might have been sufficient for the ordinary needs of government, but instead of reducing expenditures the legislature increased them. Consequently, a deficit was estimated for the year 1821 of \$30,000, to meet which a loan of \$20,000 was advocated.<sup>33</sup> This was not made, but to tide over present embarrassments a transfer of \$5000 was made to the general fund from the

<sup>31</sup>*Ho. J.*, 1821, p. 355. The treasurer a year later reported that only \$432.50 of these loans had been paid back, and that judgment was secured against the others. *Ho. J.*, 1822, p. 48.

<sup>32</sup>See chapter III.

<sup>33</sup>*Ho. J.*, 1821, p. 559.



Virginia military district school fund. The effect of this shiftless financiering was to cause a depreciation in the treasury warrants, of which some \$32,212 were outstanding and unpaid on December 3, 1821.<sup>34</sup> To relieve this situation, and probably also to relieve the money stringency which made itself felt after the failure of the banks and the panic of 1819, the legislature in the following session authorized the issue of treasury warrants for \$10, \$20, or for any fraction between them.<sup>35</sup> Two years later the faith of the state was pledged for the redemption of these bills.<sup>36</sup>

The legislature of 1822 faced a truly embarrassing situation, but acted resolutely. Mr. Thomas Worthington, of the committee on the revenue, brought in a thoroughgoing report.<sup>37</sup> He advised retrenchment in appropriations, the suspension of the road tax for one year—or rather its application to the deficit instead of to roads,—the doubling of the tax on land,<sup>38</sup> and that all treasury warrants bear interest at 6 per cent. until redeemed. While this report was not adopted, rigid economies during the next two years and a fifty per cent. increase in the land tax made it possible to redeem the outstanding warrants by the spring of 1823,<sup>39</sup> and to leave a nominal surplus of almost \$50,000 in the treasury. Of this nominal surplus, \$33,933 consisted of bank notes for which specie could not be obtained at the banks issuing them: \$11,081 was “tolerable current”; \$1,483, “immediately lost to the state”; the rest doubtful. Only one bank in twenty-one redeemed any of its notes, and that one redeemed only \$5000 out of \$16,000.

One of the economies effected was a reduction in the pay of members of the legislature from \$3.00 per day, at

<sup>34</sup>Aud. rep. *Ho. J.*, 1822, p. 41.

<sup>35</sup>Act of Feb. 2, 1822.

<sup>36</sup>Act of Feb. 24, 1824. This legislation was not repealed until 1831.

<sup>37</sup>*Ho. J.*, 1821-22, pp. 132, ff.

<sup>38</sup>The rates of the land tax are given in ch. V, on the General Property Tax.

<sup>39</sup>*Ho. J.*, 1825, p. 20.



which point it had been fixed in 1816, to \$2.00 a day.<sup>40</sup> In 1823, however, the same pressure for retrenchment no longer existing, the legislature restored its pay to the figure of 1816. The effects of the crisis of 1819 had now passed away and good times had returned. "It is gratifying to state", wrote the governor,<sup>41</sup> "that the collection of the revenue within the last year has been attended with less difficulty and inconvenience to our citizens than for some years past. It is expected that the receipts of the present year, will be sufficient for the redemption of the audited bills in circulation, amounting to about \$30,000, to defray all the expenses of the government for the ensuing year, and leave a balance in the treasury unexpended". Improvements in the tax laws and the remission of penalties on delinquent lands in 1822, to induce the prompt payment of taxes, were attended with a very happy result and the revenue increased beyond the most sanguine expectations;<sup>42</sup> in 1822 it was \$51,000 and in 1823 it had grown to \$85,000. A more thorough-going revision of the system of taxation in 1825, by which numerous forms of personal property in addition to land were subjected to taxation, led to a still further increase, to \$103,000 in 1827. From 1823 to 1827 there was a yearly balance in the treasury of between \$50,000 and \$60,000, and the finances were in a most prosperous and well-managed condition.

The detailed expenditures of the state were published by the auditor in his annual report for the first time in 1822, with two isolated exceptions. From this report we see that the executive, legislative, and judicial branches spent considerably more than half the modest total. The Ohio penitentiary called for \$10,000, but returned to the state \$2,700; printing the journals, etc., cost \$2,400; the militia spent \$3,300; while \$10,600 was paid to counties—the state here acting simply as collecting agent,—and \$2,200 was refunded for taxes improperly collected. Other

<sup>40</sup>*Ho. J.*, 1825, p. 107.

<sup>41</sup>*Gov. Mess. Ho. J.*, 1823, p. 30.

<sup>42</sup>*Aud. rep. Ho. J.*, 1824, p. 26.

miscellaneous items brought the total up to \$77,000.<sup>43</sup>

#### PERIOD OF INTERNAL IMPROVEMENTS, 1825-1845.

The year 1825 marks the beginning of a new epoch in Ohio finances. In that year commenced the policy of granting aid to public improvements, and a beginning was

<sup>42</sup>Among these items is that of bounties for wolf scalps. This had been offered first in 1795 by an act that was copied from the Pennsylvania statutes, for the killing of wolves, foxes, or wildcats. In 1799 it was offered for wolves alone, because "the raising of sheep ought to be encouraged in this territory"; and in 1802 for wolves and panthers; in 1810 the panthers were eliminated. As it survived beyond the time of its actual need, it called into existence a regular wolf breeding industry. This was recognized by the act of 1852, reviving the system after its abolition in 1851, which required of the person receiving the bounty an oath "that you have not spared the life of any she wolf . . . with a design to increase the breed". As the legislation was so continuous and so interesting in itself the acts and the rates of bounty offered are appended. Quite as interesting was a related act passed December 24, 1807, "to encourage the killing of squirrels". This provided that all persons subject to a county tax should produce annually from 10 to 100 squirrel scalps (the number to be decided annually by the trustees); if any person failed to produce the required number, he was to be fined 3 cents for each one lacking; if he had an excess, he should be paid 2 cents for each one over. The table of bounties for killing wolves follows; the amount actually paid out for this purpose may be seen in column 12 of the table of expenditures. (Appendix, Table III.)

Date of Act	Under 6 months of age	Over 6 months of age
June 10, 1795.....	\$ 1.00	\$ 2.00
Dec. 19, 1799.....	.50	1.25
Dec. 2, 1800.....	1.00	2.00
Jan. 9, 1802.....	1.50	3.00
Dec. 20, 1805.....	.50-3.00	1.00-4.00
Feb. 19, 1810.....	2.00	4.00
Dec. 22, 1821.....	1.50	3.00
Dec. 24, 1829.....	2.50	4.25
Feb. 9, 1831.....	2.50	4.25
March 25, 1851.....	Repealed previous legislation	
April 26, 1852.....	2.50	4.25
April 9, 1856.....	4.00	8.00

The last payment was made in 1873, but no law repealing them appears in the index of the laws.

made in canal building. This was a momentous step financially, for it increased the expenditures greatly, added to the taxes, and involved the state in a debt which was not paid off for almost eighty years. A thorough revision of the laws at the same time gave the state practically a new revenue system. A new method of stating the receipts and expenditures was also begun, which makes them not easily comparable with the previous reports. In 1829 the system of book-keeping changed also. Warrants were not all issued by the auditor and redeemed by the treasurer;<sup>44</sup> but the funds for canal purposes were transferred to a board of canal fund commissioners, who checked them out independently of the auditor. Consequently, after 1829 canal expenditures do not appear in the auditors' reports, and a full account of them must be sought in an account of the canals themselves.<sup>45</sup>

The subject of the construction of a canal across Ohio to connect the Ohio River with Lake Erie had been discussed in the state and broached to the legislature as early as 1817, but no decisive action was taken until 1825. In that year, after two or three years spent in preliminary surveys, etc., the work of actual construction was begun, and \$46,000 appropriated for that purpose. This expenditure appears in the auditor's reports for only five years, after which it is transferred to the reports of the board of canal fund commissioners and of canal commissioners. It may, however, be traced in column three of the general table of receipts and expenditures, in the constantly increasing gross expenditures, which culminated in the year 1839.

The effect of the new revenue act is also clearly seen in the increasing receipts from land and property, and in the more strict enforcement of the law. In 1824 for the first time appears the item of payments on land delinquent for taxes and sold therefor. The easy going methods of

<sup>44</sup>As had been done hitherto under the act of Feb. 18, 1809.

<sup>45</sup>This will be contained in a forthcoming monograph on Internal Improvements in Ohio.

collection and the remission of penalties for non-payment of taxes were stopped, and the law administered strictly. There was a steady and gradual increase in the revenues until 1839, with a temporary set-back in 1835, owing to a reduction in the tax rate, the first change that had been made since 1826.<sup>46</sup> The tax on banks was renewed in 1826, the sale of public lands began—but as the proceeds from this were used for canal purposes they were soon thereafter transferred to the control of the board of canal fund commissioners—and other taxes were resorted to increasingly. In 1831 the property tax was revised, and a number of things such as personal property and manufacturing companies were taken out of the exempt class and subjected to taxation.

The state government seems to have been conducted economically and well during these years; the expenditures grew slowly and normally, keeping pace with the growth of the state in population and wealth. The only item that shows any considerable expansion is that of expenditures for charitable, correctional, and penal institutions. Ohio now entered upon the policy of state care of the dependent and defective classes, and began to erect buildings in which to place them. In 1829 the first appropriation was made for the education of the deaf and dumb, and in 1833 was begun the erection of buildings for this purpose. The first appropriation for a lunatic asylum was made in 1835 and for a blind asylum in 1837, while continuous appropriations for a new penitentiary were made during the years 1832-39. The total amount spent on the construction and repair of buildings for all these purposes during these eight years was \$120,986, while the expenditures for care and maintenance during the same period were \$285,725. On the other hand, it should be noted that during the period 1838-44 the Ohio penitentiary turned back into the state

<sup>46</sup>The act of March 9, 1835, fixed the state rate at  $1\frac{1}{4}$  mills on the dollar. It had been  $1\frac{1}{2}$  mills. In 1830 the auditor reported, "the receipts from taxation annually exceed our calculations". Aud. rep. in *Ho. J.*, 1830, p. 24.



treasury an average of over \$11,000 a year, from the labor of the convicts.

The canals, too, were economically and honestly managed down to 1833 at least, and probably down to 1837. In his report for the latter year the auditor made a detailed comparison of the expenditures in Ohio with those of the neighboring states of New York, Pennsylvania, and Kentucky, and showed that practically every item of expense was smaller in Ohio than in the other states.<sup>47</sup> But in 1837 the legislature entered upon the unfortunate policy of loaning the state's credit in support of turnpike and canal companies, railroads, and similar works of internal improvement, and was soon involved in debt to the amount of about \$3,000,000. This law was repealed in 1840. Indeed this year saw great economies along a number of lines—the loan law and the law for the erection of a new state house were both repealed, the receipts and disbursements of the canal fund were brought under the control of the auditor, the number of members on the board of public works was reduced, the appropriations for canals were cut heavily, and in other ways expenses were reduced. The most notable economy was in the work of internal improvements. The appropriations for this purpose had been steadily expanding until in 1839 they reached the enormous total of \$366,000, in addition to the proceeds of loans. All work was now suspended except that necessary to complete improvements almost finished; during the five years 1840-44 the appropriations for canal purposes averaged only \$38,000 a year. This economy permitted a reduction of over half in the gross expenditures of the state during this period.

The expenditures for state purposes only also show a considerable decline, from \$266,000 in 1839 to \$201,000 in 1845. Drastic economies were effected in every branch of the public service; a general reduction of salaries took

<sup>47</sup>Aud. rep., 1837, pp. 13-18.



place, in some cases even below those of 1813.<sup>48</sup> The year 1839 measured the high-water mark of both expenditures and receipts. There was then a tremendous shrinkage in the gross receipts of the state treasury, from \$529,000 in 1839 to \$164,000 in 1845, of which almost seven-eighths is attributable to the decline in the general property tax from \$397,000 in 1839 to \$125,000 in 1845. Wholesale evasion of taxes occurred, and the list of delinquencies grew alarmingly. Eloquent testimony to the hard times of these years is furnished by the sudden growth in the item of taxes on lands in arrears for taxes,<sup>49</sup> from \$307 in 1836 to over \$20,000 in 1844. The surplus in the state treasury was reduced from \$127,000 in 1838 to \$23,000 the following year, and to \$11,000 in 1840. Not only was the surplus smaller, but the character of the funds, of which it was composed, deteriorated. Of the nominal balance in the treasury in 1842 of \$64,361, over \$25,000 consisted of depreciated funds—certificates of deposit and notes of failed or suspended banks.<sup>50</sup> In all these changes is seen the effect of the crisis of 1837, which affected Ohio as it did the rest of the country, though the full effects were not evident for a couple of years. At no time, however, was the credit of Ohio seriously affected, nor did she ever repudiate any of her legitimate obligations. Bravely and successfully she met all burdens and was able to weather the storm that ruined the credit and reputation of so many of her sister states. Gradually the economies of these trying years restored order to the finances; expenditures were kept well within actual receipts, loans were made to

<sup>48</sup>By act of Jan. 27, 1844, the following salaries were fixed: members of general assembly, \$2.00 per day and \$2.00 for every 25 miles traveled; governor, \$1000; secretary of state, \$500 and fees; auditor, \$730; treasurer, \$730; judges of supreme court, \$1000; president judges of courts of common pleas, \$730; etc. The pay of members of the general assembly was raised again by act of Jan. 29, 1847, and the rest of the act was repealed Feb. 7, 1848. Cf. table on p. 20 above.

<sup>49</sup>See column 3 in Table of General Revenue, in Appendix.

<sup>50</sup>Aud. rep., 1842, p. 11.

complete the public works, and the balance on hand steadily grew until it amounted to \$133,000 in 1844.

During the years 1843 and 1844 the payments made by the auditor's office under the appropriation acts were stated separately for each item of appropriation and the totals under each head in the general tables could be ascertained only with a disproportionate amount of labor, for the system of keeping a separate fund for each branch of expenditure was used. As there were 37 of these funds under the general revenue fund alone, and the totals were nowhere given by the auditor, it is clear that to the average legislator or layman the great detail and unsystematic arrangement must have precluded any clear understanding of the finances. The practice was a common one in state finance of assigning sources of revenue to different objects and having all expenditures for that purpose defrayed out of the "fund" so created. Even after the system of distributing income in this way was given up, the method was maintained of keeping separate the different funds for which the appropriations were made. It was then only a book-keeping device, and served merely to confuse the accounts. From a study of receipts and expenditures in Ohio, and the steady growth of the balance on hand, it may safely be concluded that the finances were economically administered down to 1844.

#### PERIOD OF EXTRAVAGANCE AND DEFALCATION, 1845-1860.

In 1845 a new method of stating receipts and expenditures begins in the auditor's reports. All receipts and expenditures, whether for the state or for schools, or canals, etc., passed through the auditor's office, and were reported in one set of tables; these I have called gross receipts and expenditures. Those for state purposes alone are entered under the head of the general revenue fund, and correspond with the figures hitherto given in the auditor's reports. It has seemed best therefore to continue to trace, in the detailed tables the net receipts and expenditures of the state government, rather than the gross revenue and



by \$426,000, showing that appropriations during this period far exceeded the legitimate revenue. Three times actual deficits occurred, and the rest of the time were obviated only by the existence of a large cash balance in the treasury, by transfer of money from other funds, or by loans. Indeed the receipts exceeded the disbursements only four times during this whole period. The legislature must be held in part responsible for this condition of affairs, for they did not attempt to grapple with the situation energetically until 1856. But the corruption was deep-seated and involved bank-presidents, contractors, and public officials in a general raid upon the state treasury.

A new revenue law was passed in 1846, which really introduced the system of the general property tax into Ohio, and made a determined effort to tax personal property as well as realty. At the same time a revaluation of the real property of the state added considerably to the amount of this form of property subject to taxation. The effects are clearly seen in a prompt increase of receipts from this source and of revenue for state purposes. But, rapidly as the revenues grew, the appropriations expanded even more rapidly. The fiscal year 1844 had closed with a very respectable balance of \$133,000 in the treasury. This was cut down to \$86,000 the following year by appropriations which were over \$50,000 in excess of revenue; those for 1846 were \$30,000 in excess. Appropriations for 1847 were quite as large, but a large increase of over \$60,000 in receipts fortunately restored the shrinking balance, and obviated the deficit which such a policy would ultimately make inevitable. The legislature took advantage of this favorable opportunity to raise the pay of its own members, restoring them to the level that had existed before the reduction in 1844, namely \$3.00 a day and \$3.00 for each twenty-five miles travel. This pay was limited, however, to a session of sixty days only; after that it was only \$1.00 a day, a rate of remuneration that ensured short sessions.

The appropriations were largely increased again in



1849 and 1850, without any corresponding tax being authorized by the general assembly to meet the payment of the additional appropriations.<sup>51</sup> There was an actual deficit the latter year of \$83,000. In his report for 1850 the auditor warned the legislature that such a course left "only one alternative—the general assembly must provide for borrowing the money, or adequate taxes must be levied to make up the deficit". The latter was, however, the last thing the legislature wished to do, as the constitutional convention was even then revising the constitution and a change in the tax laws was probable. Things were therefore permitted to drift for another year, when appropriations almost \$100,000 in excess of revenue swelled the deficit to unmanageable proportions—\$195,534. On November 16, 1851, the excess of expenditures over revenue had reached an aggregate of \$225,021.<sup>52</sup> This situation was met by permitting the money raised for the payment of the debt and subject to the control of the sinking fund commissioners, to remain in the treasury, where it was used to pay the ordinary expenses of government.<sup>53</sup> The auditor warned the legislature that the light tax of one mill on the dollar then in force would not be sufficient to liquidate this overdraft in addition to the ordinary expenditures of the year, and urged heavier taxation. Moreover the auditors' reports for 1852 and 1853 pressed upon the legislature the necessity of limiting the appropriations to the amount of revenue which would accrue under the tax levy of the previous year, "but in neither case was the advice regarded".<sup>54</sup> At the same time that the treasury was so embarrassed for want of funds the prosperity of the people in this "golden era" is commented upon,<sup>55</sup> showing that the shiftless financiering of the legislature was not due to the poverty of the people.

<sup>51</sup>Aud. rep., 1850.

<sup>52</sup>Special rep. of aud., Feb. 12, 1853.

<sup>53</sup>Spec. rep. of aud., Jan. 2, 1852.

<sup>54</sup>Aud. rep., Dec. 26, 1853.

<sup>55</sup>Spec. rep. of aud., Feb. 12, 1853.



The sinking fund was now exhausted, so that resort to that again was impossible, but the line of least resistance was once more followed, and instead of raising additional taxes, the legislature transferred \$250,000 of the surplus revenue fund,<sup>56</sup> which had been loaned to the counties, to the general revenue fund for state expenditures.<sup>57</sup> Extravagant appropriations for this and the next year again plunged the state into debt, the deficit for 1854 amounting to \$44,000, but this time relief was found in great economies in expenditure the next session, combined with largely increased revenues. Part of the increase in appropriations was due to the raising of the level of salaries for the judiciary and members of the legislature after the adoption of the new constitution. But by far the greatest part was caused by the construction of new buildings for state institutions, on which expenditures began in 1848, and which had swelled to alarming proportions by the end of a decade.

A new state house had been projected in 1838 and the preliminary work begun, but after a couple of years had been given over in view of the hard times. It was now revived on a larger scale, and appropriations were made for this purpose continuously from 1848 to 1861,<sup>58</sup> which far exceeded the original estimates. In 1852 new lunatic asylums at Cleveland and Dayton were authorized,<sup>59</sup> but it was stipulated in the law authorizing them that "the entire cost to the state, of each of said asylums, shall not exceed in the aggregate, when perfectly completed", \$70,000. The amount of money originally appropriated was \$140,000, but the trustees contracted for the erection of buildings costing far more, and persuaded the legislature in 1854 to grant an additional \$50,000. By the end of

<sup>56</sup>This was the surplus revenue fund distributed among the states by the federal government in 1837.

<sup>57</sup>Act of May 1, 1852. In his report of Feb. 12, 1853, the auditor suggested that this transfer be made permanent; i.e. that no attempt be made to restore the money to the surplus revenue fund.

<sup>58</sup>See column 8a in Table of Expenditures, in Appendix.

<sup>59</sup>Act of April 30, 1852.

1855, there had been drawn from the treasury \$198,989, and the buildings were still uncompleted.<sup>60</sup> In 1854 the legislature began the improvement of practically all the other state institutions, and the erection of new buildings, for the penitentiary, the blind, and the deaf and dumb asylums. The expenditure in many cases was prodigal.<sup>61</sup> Charges of graft and fraud were freely made in connection with the letting of contracts and the work of construction and repair, and apparently not without warrant. The debts for these buildings far outran the appropriations, though these were increased greatly beyond the original estimates. Finally, in 1856, the legislature was forced to meet the accumulated liabilities by a special appropriation of \$493,138, which cleaned up the bills temporarily. The completion of the buildings, however, called for still further appropriations even after this, which continued until 1860. The responsibility for this extravagance must be divided between the legislature and the administrative officers entrusted with the erection of the buildings.

More careful provision was made in 1853 "for the publication of an accurate and detailed statement of the receipts and expenditures of the public revenues."<sup>62</sup> It provided that every officer of the state who was charged with the receipt and disbursement of public money, should make a detailed annual report. The auditor was required to classify and arrange these under proper heads, "so as to present in detail an accurate account" of the finances. The only discernible effect of this was to introduce a new method of keeping accounts in the auditor's office and to render his reports comparable with earlier ones with difficulty. Itemized expenditures are given under the heading "net amount drawn on the treasury", which does not correspond with the item called "audited bills redeemed" of previous reports,<sup>63</sup> for it includes bills outstanding and

<sup>60</sup>Aud. rep., 1855.

<sup>61</sup>See columns 5 and 5a in Table of Expenditures, in Appendix.

<sup>62</sup>Act of March 14, 1853.

<sup>63</sup>See Table of General Revenue and Expense Account in Appendix.

not yet presented for redemption, and is therefore larger. Nor does it agree with the item called "bills drawn on the treasury", i. e. appropriations, for it does not include unexpended balances of appropriations, and is therefore smaller than this. The table, however, has been carried on as before.

It seemed as though the worst financial difficulties of the state had now been weathered. Acts were passed in 1856 providing for the appointment of investigating committees to inquire into the expenditure of public moneys, to punish embezzlement, and to define more carefully the duties of the auditor and treasurer. Suddenly a new financial complication arose. On June 10, 1857, William H. Gibson, the treasurer of state, announced a deficit in his office, occasioned, as he alleged, by the defalcation of John G. Breslin, his immediate predecessor. Three days later he resigned his office. On that date he stood charged on the books of the treasury with an aggregate balance of \$776,141. Instead of this sum only \$99,055 was actually found in the treasury, of which but \$34,940 was available and only \$170 in cash.<sup>64</sup> The actual deficit proved to be \$744,084. Most of this—\$411,312—belonged to the general revenue fund and reduced by so much the amount immediately available for state purposes; \$337,324 belonged to the sinking fund, and was designed for the payment of the interest on the state debt, due July 1.<sup>65</sup> Immediate steps were taken to meet this crisis and an arrangement was made with the Ohio Life Insurance and Trust Company under which that institution advanced to the state in New York City, on July 1, the sum of \$150,000, which, together with what had been previously provided, paid the interest on the debt, and fully protected the credit of the state.<sup>66</sup>

To meet the outstanding warrants of the auditor and

<sup>64</sup>Spec. Rep. on the Condition of the Treasury, Nov. 15, 1857.

<sup>65</sup>Rep. of Board of Sinking Fund Commissioners, Feb. 15, 1859.

<sup>66</sup>Gov. Mess. *Exec. Doc.*, 1857, Pt. I., p. 357. The Ohio Life Insurance and Trust Co. was wrecked a few weeks later by the defalcation of its cashier.

provide for paying those which would necessarily have to be drawn before other means could be provided for their payment, an arrangement was made with the State Bank and branches by which these institutions agreed to pay direct to parties holding auditor's warrants the amounts due them, and await reimbursement from the incoming revenues.<sup>67</sup> Immediate necessities were thus tided over and the state was enabled to meet all its obligations punctually. The financial condition of the state treasury had apparently never been stronger than it was in 1855, but the double coincidence of extravagance and corruption had proved too great a strain for even an apparently full treasury. As Governor Chase said:<sup>68</sup> "If there had been no defalcation, the means in the treasury would have been ample to pay the debts of 1855 and meet all other demands. . . . If there had been no debts, the defalcation would not have sensibly embarrassed the operations of the treasury". The debts thus alluded to amounted, at the end of 1857, to \$639,666. These had been contracted as to the greater portion without warrant of law; but as they originated in supplies and labor furnished to the state and its institutions, for the most part in good faith, payment could not properly be denied the creditors.<sup>69</sup>

On the convening of the legislature at the opening of 1858, the governor clearly stated the situation to the legislature:<sup>70</sup>

it will now be necessary to reduce the appropriations of the current year by an equal amount, or to authorize a temporary loan to make good the deficiency, and to increase the taxes of the coming year by the small addition needed to discharge it.

The first was manifestly impossible, though a slight reduction of about \$35,000 below the previous year was made in appropriations. Accordingly a temporary loan of \$700,000 at 6 per cent. was made, to be paid before March 1,

<sup>67</sup>*Ibid.*, p. 362.

<sup>68</sup>Gov. Mess. *Exec. Doc.*, 1857, I, 367.

<sup>69</sup>*Ibid.*, p. 365.

<sup>70</sup>Gov. Mess. of Jan. 4, 1858.



1861.<sup>71</sup> The act also levied a tax of 7-20 of a mill for the years 1858, 1859, and 1860, for the payment of the loan, "the proceeds of which tax is hereby irrevocably pledged to the purpose aforesaid". A commission was also appointed by another act on the same day, to examine into the condition of the treasury, and the causes of the defalcation. The following year the slate was wiped clean and a number of unusual charges were met by the general revenue fund. These consisted of various old and unavailable claims, which had been accumulating for years, and counterfeit notes, together amounting to \$64,853; extraordinary expenditures for canals, including the purchase of the Lewistown reservoir and the National Road; and the expenses of the treasury investigating committee.<sup>72</sup> They aggregated about \$175,000, and reduced the balance in the treasury to \$4,569, but at least they left the docket clear. It is indispensable to every sound financial system, [wrote Governor Chase] that the appropriations be limited by revenues, and expenditures by appropriations. The derangements which have sometimes embarrassed our finances may be traced, almost invariably, in the absence of crime, to a disregard of this salutary principle.

In order to meet the existing deficiency the auditor had urged strongly the selling of the state's railroad and turnpike stock, pointing out that it had already depreciated considerably, and that this should be done rather than increase the taxes.<sup>73</sup> The governor, however, though he had expressed himself previously in favor of their sale, thought the time an ill-advised one, and that the proceeds of the sales ought not "to be applied to any other purpose than the reduction of the public debt".<sup>74</sup> This was the beginning of an agitation in favor of the sale, not only of the stock owned by the state, but also of the public works themselves, and finally resulted in the lease of the canals in 1861 and the sale of the stock a few years later, in 1865 and 1866.

<sup>71</sup>Act of April 12, 1858.

<sup>72</sup>1st an. rep. of Comptroller, Nov. 16, 1859. *Exec. Doc.*, 1859, I, 455.

<sup>73</sup>Aud. rep., 1857.

<sup>74</sup>Gov. Mess., 1857. *Exec. Doc.* I, 368.

## CIVIL WAR PERIOD, 1860-1865.

At the outbreak of the Civil War the finances of the state were on a firm basis; they "have not, for several years, been in as good a condition as they are at this time", wrote the auditor.<sup>75</sup> The revenue system was now in good working order, the old debts had been cleared up, expenditures on the public buildings and institutions had come to an end, and the recent experiences of the state had resulted in a thorough political house cleaning, so that the state government was practically free from extravagance and corruption. Under these circumstances the burdens imposed by the war rested more lightly upon the people of Ohio than they did in most states. The most serious loss involved was occasioned by the drain of men from farm and city; between 1861 and 1865 Ohio sent 310,654 of her sons into the Union armies. The war expenses of the state government during these years was as follows:<sup>76</sup>

YEAR	EXPENSES.	RELIEF FUND.	TOTAL.
1861.....	\$1,458,482	none	\$ 1,458,482
1862.....	1,386,614	\$ 533,179	1,919,793
1863.....	420,260	935,703	1,355,963
1864.....	878,301	2,012,050	2,890,351
1865.....	597,717	2,137,933	2,735,650
	<hr/>	<hr/>	<hr/>
	\$4,741,374	\$5,618,865	\$10,360,239
Claims allowed and not yet paid, but for which the state is liable			50,000
			<hr/>
			\$10,410,239

Of this state expenditure, \$1,059,079 was raised by means of loans still outstanding at the end of the war; and \$1,851,899 was refunded by the federal government on account of the direct tax levied on the states, leaving a

<sup>75</sup>Aud. rep., 1861. *Exec. Doc.*, II, 30.

<sup>76</sup>Rep. Adjutant General. *Exec. Doc.*, 1866, I, 29. In addition to these

balance of about \$7,500,000 to be raised by taxation.<sup>77</sup> In spite of this extraordinary drain upon her resources, Ohio yet succeeded in reducing the state debt \$1,374,921, and found it necessary to raise the rate of taxation by only 1.35 mills.<sup>78</sup> The explanation of this seeming miracle is to be found in the increase in taxable property returned for taxation, and the promptness with which taxes were paid under the stimulus of patriotism, the delinquencies falling in 1861 to less than 1 per cent. of the total.<sup>79</sup> At the same time economies were introduced in expenditures for ordinary purposes and these were maintained nearly on a stationary level in spite of rising prices. Not until the last year of the war, 1865, was there any marked increase in expenditures.

But even more striking than the economies in state administration were those effected by the local governments. Of the local revenues, the governor wrote in 1861,<sup>80</sup>

expenditures on the part of the state government a much larger amount was raised for local bounties to enlisted men.

YEAR.	NUMBER MEN.	AMOUNT OF BOUNTY.	TOTAL AMOUNT OF BOUNTIES.
1862.....	42,031	\$ 25	\$ 1,050,775
1863.....	16,472	100	1,647,200
1864.....	96,457	400	38,582,800
1865.....	22,212	500	11,106,000
			<hr/>
			\$52,386,775
Veterans.....	20,708	100	2,070,800
			<hr/>
			54,457,575

Of which there was paid by municipal corporations. \$14,000,000

By individual subscription..... 40,457,575

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\$54,457,575

<sup>77</sup>In the auditor's report for 1865 there is a mistake in subtraction, the latter figure being given as \$8,449,261. *Exec. Doc.*, 1865, I, 329.

<sup>78</sup>The rate of state taxation was as follows: 1860, 3.95 mills; 1861, 4.55 mills; 1862, 4.65 mills; 1863, 5.05 mills; 1864, 5.30 mills; 1865, 5.30 mills.

<sup>79</sup>See chapter V, on the General Property tax.

<sup>80</sup>Gov. Mess. *Exec. Doc.*, 1861, I, 484.

it is believed that at least 33 per cent. may, without serious and but temporary detriment to the people of the state, be withheld from the several special purposes and made applicable to the general treasury.

So energetically was this principle carried out during the first two years of the war that, in spite of heavy war expenditures, there was a decrease of over \$1,000,000 in the aggregate taxes for all purposes within the state. The following table makes this point clear:<sup>81</sup>

	1861.	1862.
State taxes for ordinary purposes.....	\$ 3,744,454	\$3,285,609
State taxes for war purposes.....	311,925	843,863
County taxes.....	3,222,373	2,783,735
City, town, and special taxes.....	3,972,376	2,849,301
Aggregate .....	\$11,071,128	\$9,762,508

The laws of 1860 did not contain the word "militia" in the index, and the state expenditures for militia and military affairs amounted to only \$6,656, which was double that of the previous year. With the outbreak of war, however, Ohio promptly appropriated the money necessary to arm and equip her soldiers. The act of April 18, 1861, provided for the rapid organization of the militia, appropriated \$450,000 for arms and equipment, and \$500,000 for the support of the federal government, to be spent under the direction of the governor; a contingent fund of \$50,000 was also placed at the disposal of the governor, and a loan of \$750,000 was authorized.<sup>82</sup> The following years still greater expenditures were authorized.<sup>83</sup> As Ohio's southern boundary was exposed to invasion, the legislature showed itself very fearful of attack from that source; by act of April 11, 1863, a loan of \$500,000 was authorized in case of invasion, which, however, was not made. The same year Morgan's raid (June 27-July 26) showed the danger to be a real one, and during the next session \$35,000 was appropriated to repel invasion and

<sup>81</sup>Rep. Com'r of Stat. *Exec. Doc.*, 1862, I, 462.

<sup>82</sup>*O. L.*, 1861, p. 89.

<sup>83</sup>Acts of May 1, 1862; Jan. 20, 1863; April 13, 1863; March 30, 1864; April 13, 1865.



suppress insurrection, while a loan of \$400,000 for the same purpose was authorized.<sup>84</sup> This bore 6 per cent. interest and the bonds were exempt from state taxation; it was sold to the citizens of Ohio and yielded a premium of \$502.<sup>85</sup> The following year an appropriation of \$500,000 was made, to be used if necessary to repel invasion or suppress insurrection.<sup>86</sup>

The war governor of Ohio was David Tod, but on January 11, 1864, John Brough, who had formerly been one of Ohio's most able auditors, was inaugurated. In his last official message, Governor Tod urged the abolition of the office of comptroller, as useless and unnecessary—a recommendation also made by the auditor—and also an increase in the salaries of state officers by 50 per cent.<sup>87</sup> The over-issue of paper money by the federal government had led to a rise in prices, but the pay of state officials had remained constant at the point at which they had been fixed years before. Two years later, when the war was over, the legislature followed this advice, taking care at the same time to raise their own pay to \$5.00 a day and \$3.00 mileage for every twenty-five miles traveled; the salary of the governor was fixed at \$4000.<sup>88</sup>

Partly as a result of extraordinary expenditures occasioned directly or indirectly by the war, partly as a result of the higher prices, and partly as a result of normal growth, and possibly of growing extravagance engendered by the paper money regime, the disbursements of the state government were steadily mounting upwards. The gross expenditures of the state grew from \$3,683,000 in 1860 to \$12,435,000 in 1865, while the net expenditures of the general revenue fund increased from about \$800,000 to \$2,275,000 in the same period. The year 1865 was, however, an abnormal year, being more than double the

<sup>84</sup>Act of March 30, 1864. *O. L.*, p. 81.

<sup>85</sup>Rep. Com'r of Skg. Fd. *Exec. Doc.*, 1864, I, 205.

<sup>86</sup>Act of April 13, 1865. *O. L.*, p. 164.

<sup>87</sup>Gov. Mess., Jan. 4, 1864. *Exec. Doc.*, 1863, I, 3.

<sup>88</sup>Act of April 2, 1866. *O. L.*, p. 65.

previous year,<sup>89</sup> and the largest in the history of the state down to the present time. Part of this increase was occasioned by the payment of the direct tax of \$766,897 to the federal government, while the benevolent institutions called for \$225,000 more than the previous year, and printing, binding, and stationery showed an excess of \$110,000. In even greater degree the local expenditures and taxes grew. The state budget became permanently larger from this time on, and, though economies along some lines were effected and the swollen items of 1865 were cut down, it was never again brought back to the *ante-bellum* figures.

#### DEFICITS AND TRANSFERS.

Upon the cessation of war the state tax rate was restored to the old figure of 1859, and an effort was made to cut down expenditures. The act of April 5, 1866, fixed the rates of taxation for state purposes as follows: state government, including benevolent institutions, 1 mill; sinking fund 1.2 mills; common schools, 1.3 mills. The lowness of these rates led to the boast that Ohio had the cheapest state government, in proportion to population, that could be found.<sup>90</sup> The whole amount of salaries paid to state officers in 1866 was only \$21,207. This was soon altered by an act of this same year, providing for a general salary increase.

The budget of 1867 and 1868 accordingly saw a great increase in the salaries of administrative and judicial officers and in the pay of members of the general assembly. The cost of maintenance of the charitable, correctional, and penal institutions also showed a rapid and continuous expansion, from \$375,000 in 1864 to \$645,000 in 1865, \$780,000 in 1866, and \$935,000 in 1867. In the following year it passed the million dollar mark, and only once since has fallen below that figure. This growth of public expenditures called forth a protest in 1868 from the

<sup>89</sup>Gov. Mess., *Exec. Doc.*, 1865, I, 205.

<sup>90</sup>Rep. Com'r of Stat. *Exec. Doc.*, 1866, I, 667.

auditor;<sup>91</sup> he thought \$500,000 a year could be saved, "and the public service be better performed than under the present wasteful system of management". To carry out this policy of retrenchment he urged shortening the term of the legislative sessions, docking the pay of absentees, forbidding extra compensation, etc. Not all of the expenditures, however, were caused by legislative extravagance, for the decade following the war saw the application in Ohio of a vigorous policy of debt payment. In 1867 the claims due the state from the federal government and the balances of various funds then in the treasury were transferred to the sinking fund and used to pay the debt.<sup>92</sup>

By 1867 the extraordinary expenditures belonging to a state of war had ceased, thereby making an annual saving to the people of Ohio of about \$3,000,000.<sup>93</sup> The state tax was reduced to the same point as before the war, and a decrease in expenditures might have been anticipated. Such was far from being the case, however. Rising prices caused by depreciated paper money induced legislative and administrative extravagance and also necessitated higher taxes, while the growth of population and the rapid increase of cities and towns called for larger expenditures to satisfy legitimate needs. A comparison of the various rates of taxation for state and local purposes makes it evident that the real growth during this period was in the local governments rather than in the state. This is clearly shown in the following table:<sup>94</sup>

PURPOSES.	1859.	1866.	1867.
State tax.....	3.5	3.5	3.5
Aggregate local taxes.....	7.7	10.0	12.5
Other special taxes.....	1.3	1.4	1.4
<hr/>			
Aggregate .....	12.5	14.9	17.4

During all this period the receipts from taxation were steadily increasing, although the rate for state purposes

<sup>91</sup>Aud. rep., Dec. 12, 1868. *Exec. Doc.*, I, 94.

<sup>92</sup>Gov. Mess., Jan. 6, 1868. *Exec. Doc.*, 1867, I, 148.

<sup>93</sup>*Ibid.*, p. 147.

<sup>94</sup>Rep. Com'r of Stat. *Exec. Doc.*, 1867, I, 948.

remained unchanged. In 1867 the valuation of the taxable property in the state increased \$32,545.858 over that of the previous year; this the governor thought was due to the increased care and accuracy in the administration of the tax laws, and the growing familiarity of local boards of equalization with their duties.<sup>95</sup> More important, however, was probably the general rise of prices, which by this time had affected real estate and property values.

But in spite of the growth of revenues, expenditures were growing still more rapidly. In 1868, as a result of the increase of legislative appropriations \$90,000 in excess of the estimates, and other causes, a deficit appeared in the state finances. To avoid borrowing or raising the tax rate the auditor suggested a transfer of \$200,000 from the sinking fund.<sup>96</sup> In spite of its unconstitutionality this advice was followed, and \$175,000 was transferred from the sinking to the general revenue fund, on condition that it be repaid by January 1, 1871.<sup>97</sup> This method of covering deficiencies and yet permitting extravagant appropriations was so easy, that it was resorted to again in 1869. This time there was transferred from the sinking fund \$150,000, from the school fund \$71,000, and from the canal fund \$25,000, or a total of \$246,000.<sup>98</sup> In spite of these temporary loans, there were on November 15, 1869, outstanding appropriations against the general revenue fund amounting to \$1,303,407, for which there were no monies available.<sup>99</sup> For the coming year the auditor estimated that there would be, on the basis of existing revenues and expenditures, a deficit of \$510,000, to meet which he urged an additional tax levy of .5 mill, and in case the taxes could not be collected in time then a temporary loan of \$300,000 would be necessary.

<sup>95</sup>Gov. Mess., Jan. 6, 1868. *Exec. Doc.*, 1867, I, 148.

<sup>96</sup>Aud. rep. *Exec. Doc.*, 1868, I, 85.

<sup>97</sup>Act of May, 1868. For a full discussion of these transfers and their legality, see *The History of the State Debt of Ohio*, in *Journal of Political Economy*, June, 1911, p. 464.

<sup>98</sup>Authorized by appropriation act of May 5, 1869.

<sup>99</sup>Aud. rep. *Exec. Doc.*, 1869, I, 373.



The embarrassment of this fund [he wrote<sup>100</sup>] has been produced by the last two sessions of the General Assembly, by the addition of eleven new judges to the judicial forces of the state, by the purchase of lands, and establishing thereon a Reform School for Girls, the unusual expenses of traveling committees of the Legislature, and the extraordinary appropriations for miscellaneous purposes made at the last two sessions of the General Assembly. . . . There is such a mania for office, for squandering the public moneys, in fat jobs to favorite contractors, and improvident purchase of property from favorites at exorbitant prices, that without some such restraints as are here indicated there is danger of great public demoralization; of oppressing the enterprising and industrial classes of the people, and driving whole communities into bankruptcy.

The largest item in the increased expenditures was for the construction and support of the benevolent institutions of the state. Ohio was at this time entering upon the policy, which has been adopted now by all the advanced states of caring for the defective and dependent classes at state expense, instead of leaving them to the mercy of the local governments. In carrying out this policy there were built during this period state asylums for the deaf and dumb, for the blind, and for imbecile youth. The Northern Lunatic Asylum had been burned and was rebuilt. Although the governor urged that the state also undertake the complete care of the insane,<sup>101</sup> this reform was not effected until the end of the century, and the insane poor remained in county almshouses. Indeed the reforms undertaken threatened to equal the aggregate revenues. "The people of Ohio are grievously taxed", wrote the auditor in 1871,<sup>102</sup> and in the following year he pointed out that 54 per cent. of the *entire* receipts of the state, or 72 per cent. of the amount received from *taxation*, was disbursed for the *State public benevolent institutions*. . . . More than 98 per cent. of the entire receipts from taxes into the revenue fund are to be absorbed by state charities.<sup>103</sup> The estimated receipts of the general revenue fund for 1872 were \$1,627,625, and the estimated disbursements for the benevolent institutions were \$1,600,000.

<sup>100</sup>*Ibid.*, pp. 373. 381.

<sup>101</sup>Gov. Mess. *Exec. Doc.*, 1872, II, 572.

<sup>102</sup>*Exec. Doc.*, 1871, II, 200.

<sup>103</sup>Aud. rep. *Exec. Doc.*, 1872, II, 325.

Desirable as were the reforms which the state was carrying out, they were threatening to absorb the funds needed to defray the ordinary expenses of government. The general revenue fund was actually overdrawn during most of the year 1872, but transfers from the sinking fund and the common school fund were authorized by the general assembly and an actual deficit was thus temporarily averted.<sup>104</sup> By the end of the fiscal year, however, the real deficit of the general revenue fund was \$170,867.<sup>105</sup> To meet the growing demands upon the state the auditor urged that the rate of taxation for this purpose be increased from 1.1 mills to 1.7 mills, making the total state levy 3.5 mills. On the basis of existing revenues and estimated appropriations he prophesied a deficit for the next year of \$380,000.

#### ENFORCED ECONOMY.

The following year the legislature resolutely attacked the financial situation. They reduced expenditures \$427,485 below those of the previous year; the tax levy was increased by .6 mill, in accordance with the auditor's suggestion, while a windfall of \$94,000 was added to the receipts through the payment of some war claims by the federal government.<sup>106</sup> At the same time an effort was made to separate the extraordinary expenditures occasioned by the building of benevolent institutions from the normal expenses of running the state government, by the creation of a separate fund for the former purpose, called the asylum fund. This was established by assigning to it 70 per cent. of all the taxes collected for the general revenue fund.<sup>107</sup> The latter could not stand this drain, however, and after transferring \$929,306 saw its own balance reduced to only \$21,108. The following year \$45,957 additional was transferred, leaving \$17,264 still owing "to be transferred when

<sup>104</sup> Act of April 27, 1872.

<sup>105</sup> Aud. rep., *ut supra*, p. 325.

<sup>106</sup> Aud. rep. *Exec. Doc.*, 1873, I. 4.

<sup>107</sup> Act of Jan. 14, 1873, 70 O. L., p. 8.

the revenue fund is in a condition to justify the same".<sup>108</sup> The inability to complete the transfer was due to the lowering of the tax rate by .3 mill, which reduced the state taxes below what it was estimated they would have yielded by \$474,000.

Unfortunately the reduction in the tax rate coincided with a decided shrinkage in the taxable property returned for taxation, as a result of the crisis of 1873. From \$1,648,000 in 1873 the receipts from the general property tax declined to \$925,000 in 1874, \$777,000 in 1875, and \$627,000 in 1876. In his inaugural address to the legislature in January, 1874, and again in his annual mesage of December 1 of the same year, the new governor, William Allen, urged economy, especially in view of the hard times prevailing.<sup>109</sup> In response to this appeal the legislature cut down its appropriations for 1874 about \$90,000 below those of the previous year, effecting important savings in the items of printing and distributing the laws and journals, and militia. On the other hand, the disbursements for the pay and mileage and other expenditures of the general assembly itself were larger than those of 1873 by \$50,000. The following year, 1875, they cut down these expenditures by over \$90,000, an amount which represented the economies of this year over the previous one.

The creation of the asylum fund in 1873 had meanwhile tended unnecessarily to confuse and embarrass the finances. After this act there were four distinct funds or purposes for which taxes were levied; these were the sinking fund, for the payment of the state debt; the general revenue fund, for legislative, executive, and judicial purposes; the asylum fund, for the support and maintenance of the public benevolent, penal, and reformatory institutions; and the common school fund, in respect of which the state acted merely as the agent, returning the proceeds to the counties in proportion to the enumeration

<sup>108</sup>Aud. rep., Nov. 30, 1874. *Exec. Doc.*, 1874, I, 37.

<sup>109</sup>*Exec. Doc.*, 1874, I, 11.

of school children.<sup>110</sup> For each of these purposes a separate levy was made in the general property tax, the proceeds of which went into a particular fund, from which it was to be disbursed for that purpose only. Each fund had its own sluice through which flowed a part of the state revenues, distinct and separate from the other three. It might happen, under this system, and frequently did happen, that one service would be starved for lack of funds, while another would have a surplus on hand. Under these circumstances it was the practice of the legislature to "borrow" or transfer temporarily the money from one fund to another. Each fund was thus endowed with a sort of fiscal personality. While such a practice might seem justifiable as a mode of escape from the rigidity of the fund system and the often unwise distribution of income among them, yet it could result only in confusion if not in downright deception. The transfers between funds during the years 1872-75 is concisely set forth in the following table, which shows the amounts owing at the end of each year:

TRANSFERS <sup>111</sup>	Year ending Nov. 15			
	1872	1873	1874	1875
From sinking to general revenue fund	\$ 100,000	\$ 130,000	\$ 130,000	
From school to general revenue fund	50,000	80,000		
From sinking to asylum fund.....		450,000	450,000	\$ 450,000
From school to asylum fund.....		21,000	21,000	
Total .....	150,000	681,000	601,000	450,000

As a result of these transfers from the sinking fund to the asylum fund, and the failure of the latter to repay it, the commissioners of the sinking fund found themselves unable to redeem the public debt that fell due on January 1, 1876. The depleted condition of the sinking fund was made worse by an ill-advised reduction in the tax levy for this

<sup>110</sup>After referring to this system the auditor concluded, "I know of no simpler or better devised plan in force for the management of the finances of any of our sister states". Aud. rep. *Exec. Doc.*, 1873, I, 4.

<sup>111</sup>Acts of 1872, May 5, 1873; March 30, 1875. *O. L.* vol. 60, p. 130; vol. 70, p. 271; vol. 72, p. 124.



purpose in 1874 by .3 mills, which reduced the revenue by some \$474,000.<sup>112</sup> During the year 1875 the general assembly divided the sum still due the sinking fund and assigned \$70,000 to the general revenue fund and \$380,000 to the asylum fund, at the same time directing that "at least \$200,000 "should be retransferred from the latter to the sinking fund before January 1, 1876."<sup>113</sup> As there was an estimated deficit of \$280,000 for the asylum fund itself during this year,<sup>114</sup> such repayment was manifestly impossible, and as a consequence there was just so much less to apply to the liquidation of the debt from the sums that had been definitely collected for this purpose.

This incident illustrates fairly the improvident financiering of the legislature, and their exasperating method of shouldering the responsibility off on to the auditor by directing him to perform the manifestly impossible. The finances of these four years were greatly confused by the transfers and standing credits of one fund to another; not until 1876 were they straightened out again. No effort was made to repay the "borrowed" sums to the sinking fund, as no debt became due until 1881. But in 1879 the asylum fund was merged in the general revenue fund;<sup>115</sup> practically the existence of this fund had tended to multiply accounts and calculations unnecessarily.<sup>116</sup>

In his inaugural message of January 3, 1876, the governor had thought it necessary to admonish the general assembly on the subject of economy.

It may be well for you to consider [he wrote<sup>117</sup>] whether the public interests will not be best subserved by a . . . inquiry for means to reduce the expenses of the state and local governments, and relieve the people from as much of the burden of taxation that is now weighing them down as possible, rather than by excessive legislation with which former general assemblies have bewildered the people.

<sup>112</sup>Aud. rep. *Exec. Doc.*, 1874, I, 60.

<sup>113</sup>Act of March 30, 1875, Sec. 4. *O. L.*, p. 124.

<sup>114</sup>Aud. rep. *Exec. Doc.*, 1875, II, 373.

<sup>115</sup>Act of March 26, 1879.

<sup>116</sup>Aud. rep. *Exec. Doc.*, 1876, I, 7.

<sup>117</sup>*Exec. Doc.*, 1875, I, 3.

The revenues were declining during these years as a result of the depression following the crisis of 1873, and the general assembly which was in session during 1876 and 1877 was economical in its appropriations. An increase in the item of salaries of administrative officers was offset by a decrease in the state printing bills; an interesting item in 1876 was \$35,000 for the centennial celebration.

#### INCREASED APPROPRIATIONS AND INSUFFICIENT REVENUE.

The year 1878 saw a revival of industry, which was reflected in a large increase in the revenues from taxation. This increment was promptly absorbed by greatly enlarged appropriations, amounting to 60 per cent. more than those of the previous year: the general assembly (for extraordinary expenses), printing, the public works, and the militia all shared in the distribution. Not merely was the surplus spent, but advance drafts to the amount of \$200,000 were drawn on the county treasurers for the December taxes, which properly belonged in the next year's revenue account. Consequently instead of a nominal balance of \$119,184 in the treasury, as given by the auditor, there was an actual deficit of \$80,816.<sup>118</sup> There were numerous occasions in Ohio finance when this same practice was repeated, but owing to the system of cash accounting, by which only the actual receipts and disbursements were stated in the annual balance sheet, these real deficits do not appear in the auditor's reports or in my table of the general revenue fund (Table I). The method of accounting on the basis of accrued receipts and liabilities would of course prevent the concealment of such practices and reveal more truly the actual state of the treasury.

In 1879 the asylum fund was again consolidated with the general revenue fund, which makes comparison of ex-

<sup>118</sup>Aud. rep., *Exec. Doc.*, 1878, I, 4. The auditor's reports, which in the earlier years were very detailed and contained much valuable information, are now restricted to the bare statistical tables, without any explanation or criticism. In the report for 1877 comment was reduced to 3 pages, in 1878 to 2, and in 1879 to 1 page.

penditures with previous years a little difficult. Expenditures for the charitable, correctional, and penal institutions of the state, and for the Soldiers' and Sailors' Home and maintenance, amounted to about \$1,500,000 or three-fifths of the whole. The item of public works showed the greatest growth during this period. These had been leased in 1861 to a private corporation, which threw up the lease in 1877 as they were not proving profitable. Beginning with 1878, consequently, the care of the canals added on the average over \$200,000 yearly to the budget.

The next few years saw only a normal increase in expenditures, and the cash balance in the treasury kept steadily growing. In 1884, however, the general assembly reduced the state tax for general revenue purposes by one-tenth of a mill, resulting in a loss of revenue the following year of \$350,000.<sup>119</sup> Unfortunately for the revenues the reduction in the tax rate coincided with the panic of 1884, which caused a decline in the amount of personal property returned for taxation of \$32,293,135. At the same time the expenditures were increased over \$100,000, so that the cash balance was cut down from \$588,000 for 1884 to \$98,000 in 1885. During the session of 1885 extravagant appropriations absorbed not merely this balance but created liabilities far in excess, so that it became necessary for the state to make advance drafts on the counties to the total amount of \$800,000.

The sixty-seventh general assembly, which convened for a two-year term in January, 1886, was Republican. It seemed as if their short absence from power had simply whetted their appetites, and they immediately attacked the public revenues like ravenous wolves. The appropriations for 1886 were \$324,119 in excess of the revenues, and the following year, in spite of remonstrances from the auditor, they were \$363,071 in excess, or a total in two years of \$687,191. The excessive liabilities created by the previous general assembly had necessitated a temporary loan of

<sup>119</sup>Gov. Mess. *Exec. Doc.*, 1885, I, 417.

\$500,000.<sup>120</sup> Not only was this amount wholly absorbed, but additional deficiencies were created which had to be met again by advance drafts on the counties in anticipation of taxes. The counties were drawn upon as early as May 21, 1887, on account of the June collection of taxes which were ordinarily not available until August.<sup>121</sup> By the fall the situation was so serious that bills and accounts due in October had to be held back until November 12, the very earliest date at which funds could be raised from the counties by advance drafts, and even then they were met out of funds that were not legally collected for the state. The excess of actual disbursements over receipts during these two years was \$607,065, leaving liabilities of over \$80,000 still unpaid.

This reckless plan of living beyond their income and appropriating money not on hand nor available for state purposes was continued by the next general assembly. Governor Foraker urged that this be avoided by increasing the revenues; or if this was not done that the levy for the sinking fund be reduced from five-tenths to two-tenths of a mill and the difference be added to the general revenue fund. "This will almost, if not quite," he said, "provide for all deficiencies".<sup>122</sup> That the constitution made the payments into the sinking fund mandatory did not seem to occur to him. As there was no money in the treasury, the temporary loan due on July 1, 1887, was refunded to fall due half on July 1, 1889, and half on July 1, 1890.<sup>123</sup> The following year part of the debt due on July 1, 1888, was refunded, although the constitutional requirement of the sinking fund was thereby disregarded.

The same policy of deficit financing was pursued during the year 1888 also. Deficiencies amounting to over \$220,000 were created, chiefly on account of the construc-

<sup>120</sup>Act of May 13, 1886. *O. L.*, p. 154. The bonds bore  $3\frac{1}{2}$  per cent. interest, and were made payable on July 1, 1887.

<sup>121</sup>And. rep., *Finance Doc.*, 1887, I, 292.

<sup>122</sup>Gov. Mess. *Exec. Doc.*, 1887, I, x.

<sup>123</sup>Act of March 21, 1887. *O. L.*, p. 117.



tion of the Soldiers' and Sailors' Home at Sandusky, and the building of additional cottages at the Sailors' Orphans' Home at Xenia. Indeed the chronic deficiencies since 1885 had been occasioned by the construction of these institutions, together with the Toledo Asylum for the Insane, the Working Home for the Blind at Iberia, and the Intermediate Penitentiary at Mansfield. However praiseworthy the purposes the financial policy of the legislature must still be condemned. And the same policy was pursued during the years 1889 and 1890; in the former year advance drafts were drawn on counties for \$100,000 in anticipation of the next year's revenue, and in the latter to the amount of \$185,000.

#### ENLARGED REVENUES AND INCREASED EXPENDITURES FOR PUBLIC INSTITUTIONS.

But relief was now at hand. The public institutions were practically completed and the extraordinary drain on the revenues was stopped. And, more important still, the revenues themselves were increased. Instead of general stagnation, it was now a period of general prosperity. The decline in the value of taxable property on the duplicate was stopped, and the aggregate of property returned for taxation increased more than \$84,000,000.<sup>124</sup> A new source of state revenue was also tapped in the liquor traffic, one-third of the taxes on which were diverted into the state treasury, the other two-thirds being left to the local units of government. Efficient management of the finances would now have introduced order and stability into the budget, but this apparently could not be secured at the hands of the legislature.

In 1891 Congress refunded the direct tax to the states,<sup>125</sup> which had been collected at the time of the Civil War, and Ohio received \$1,332,026 as her share. Of this amount \$1,000,000 was placed to the credit of the sinking

<sup>124</sup>Gov. Mess. *Exec. Doc.*, 1889, I, iii.

<sup>125</sup>Act of March 2, 1891.

fund and \$332,026 to the general revenue fund.<sup>126</sup> But prosperity had quite as bad effects on the finances as had adversity. The general assembly took advantage of the presence of this large sum in the sinking fund to remit taxation for sinking fund purposes altogether in 1891, instead of applying it to a reduction of so much additional debt.<sup>127</sup> The addition to the general revenue fund was not much more than sufficient to clear up old liabilities, but the general assembly was beguiled into extra large expenditures, and closed the year with a deficit of \$151,000. This deficit consisted of outstanding liabilities for miscellaneous matters (\$133,000) and for the Boys' Industrial School at Lancaster (\$18,000), and had to be met out of the revenue of the next fiscal year.<sup>128</sup>

The receipts for 1892 would have been adequate to meet all these expenses and leave a balance in the treasury, had not the state board of equalization taken this opportunity to reduce the taxable property on the grand duplicate, as a result of which the state revenue was reduced about \$100,000. It seemed as though the pressure to reduce taxation was so strong that it could not be resisted, even though such reduction threw the budget out of equilibrium, deprived needed state services of the means of support, deferred the payment of the debt, or involved the state in deficits. There is nowhere discernible in the financial measures of this period any far-sighted statesmanlike estimate of the needs of the future, or consistent policy in meeting them. Each general assembly, and even each session, pursued a hand-to-mouth policy without any regard for the future, or even due provision for its own needs if these involved resort to increased taxation. In his annual message of January, 1893, the governor admonished the legislature to observe economy:<sup>129</sup> "I enjoin upon the

<sup>126</sup> Act of April 30, 1891. *O. L.*, p. 448.

<sup>127</sup> By act of April 30, 1891 (*O. L.*, p. 479), the only state taxes levied were 1.4 mills for general revenue purposes, and 1 mill for common school purposes. In 1892 the sinking fund tax of .3 mill was reimposed.

<sup>128</sup> *Treas. rep. Exec. Doc.*, 1892, I, 524.

<sup>129</sup> *Gov. Mess. Exec. Doc.*, 1892, I, 4.

general assembly that the total appropriations for the several branches of the public service be carefully kept within the annual revenue of the state government . . . . carefully scrutinize the estimates submitted by the heads of the various institutions and departments of the state . . . . the revenues of the present year will not justify the appropriations made for the preceding year."

The disbursements for 1892 and 1893 were each year about \$70,000 in excess of receipts, but these were met out of the balance on hand, though this was reduced considerably as a result. In the latter year the panic of 1893 caused the revenues to shrink perceptibly, and legislative economy became imperative.

Your honorable body [said Governor McKinley to the general assembly in January, 1894<sup>130</sup>] meets at a time when the state is suffering from prolonged industrial depression, from which unhappily there appears no immediate prospect of relief. . . . Rigid economy should be practiced in every branch of the public service. Waste and extravagance should be prevented. . . . A short session and but little legislation would be appreciated at a time like this.

The governor took advantage of the opportunity to urge that the legislature meet only biennially. This had been provided for by the constitution of 1851,<sup>131</sup> but the provision had been evaded by holding adjourned sessions in the odd years. The 51st general assembly, which met January 2, 1854, and adjourned *sine die* May 1 of the same year, was the only one which had thus far obeyed the spirit of the constitution. Recently, however, there had been much discussion of the subject and the Republican party had embodied in its state platform a demand for biennial sessions. As this party was now in power in both branches of the legislature it proceeded to carry out its pre-election pledges: the 71st general assembly met on January 8, 1894, and adjourned *sine die* on May 21. Of this action the governor expressed high approval in his next message, and

<sup>130</sup>Gov. Mess. *Exec. Doc.*, 1893, I, 3.

<sup>131</sup>Art. II, sec. 25, of the constitution reads: "All regular sessions of the General Assembly shall commence on the first Monday of January, biennially".

stated that neither the state nor its institutions suffered any inconvenience, while it saved the people \$75,000; he recommended a continuance of the practice.<sup>132</sup> Since that time biennial sessions have been the rule.

In spite of the decrease in revenues and the industrial depression the legislature found it impossible to curtail expenditures. In fact they exceeded those of the previous year by \$200,000, and incurred liabilities far in excess of receipts. To meet these "casual deficits" in the general revenue fund a loan of \$500,000 was authorized at 3 per cent. interest, redeemable on July 1, 1896.<sup>133</sup> Of the proceeds of this loan the law directed that \$85,000 should be appropriated for an agricultural experiment station. For the second time within a decade now loans were resorted to for current expenditures. Most of the deficit was attributable to the increase of expenditures for the public institutions of the state, and in so far as this represented a capital investment might have justified a resort to the sale of bonds. But the state had been engaged for years in a policy of improving and enlarging her charitable and correctional institutions, until expenditures for such purposes were to be regarded as normal rather than extraordinary, and hence adequate provision should have been made for meeting their cost out of current revenues.

Unfortunately business-like methods had not yet been applied either to the construction or maintenance of the public institutions of the state. In the purchase of supplies the different institutions competed with one another in the open market. The concentration of such work in the hands of a state official or board, the invitation of bids for goods with definite specifications as to quality, etc., and the purchase of supplies in wholesale quantities, would have saved many thousands of dollars to the state. The creation of a purchasing board to buy supplies for all state institutions was advocated by the governor, who at the

<sup>132</sup>Gov. Mess. *Exec. Doc.*, 1895, I, 26; 1896, I, 14.

<sup>133</sup>Act of April 25, 1894. *O. L.*, p. 186.



same time urged economical expenditure upon all state officers.<sup>134</sup>

A tax commission had been appointed in 1893 and in their report had urged a number of new taxes. This advice was followed by the general assembly in the next session, and as a result of this legislation the revenues were increased in 1895 by receipts from a number of additional sources. Among these were the inheritance tax, and the excise taxes on express companies and sleeping car companies. Perhaps under the impression that these new taxes would be more lucrative than they actually proved to be at first—they yielded only \$25,000 in 1895, and \$42,000 in 1896, but jumped to \$550,000 in 1897—the legislature increased their appropriations even more rapidly. Expenditures for 1896 were over \$400,000 in excess of those of 1895, while those for 1897 showed a further increase of \$240,000.

The expanding disbursements called for repeated remonstrances from the auditor in his reports of 1897, 1898, and 1899. "It is respectfully suggested," he wrote,<sup>135</sup> "that the general assembly adhere to the plain business methods of living within our income and not make appropriations in excess of the estimated receipts. The estimated receipts this year for the general revenue fund are \$4,841,851, and the estimated disbursements \$5,913,091. If appropriations asked for are made it will necessitate resort to the unbusinesslike method of making advance drafts on counties in anticipation of taxes". In this case, however, it was the heads of institutions and departments that were extravagant in their demands. The estimates were heavily cut by the legislature, while on the other hand the revenues kept expanding even more rapidly than was expected. From now on expenditures were kept within income, while the balance on hand kept growing until it reached unreasonably large proportions. In 1908 the balance in the

<sup>134</sup>Gov. Mess. *Exec. Doc.*, 1896, I, 9.

<sup>135</sup>Aud. rep., 1897, p. 5. The report of 1899 contains the last comment in words; after that nothing but an ocean of figures.

general revenue fund amounted to \$4,488,748 or over 50 per cent. of the annual expenditures. This sum seems unnecessarily large as a working balance, and by so much withdraws from the people an unnecessarily large amount of their wealth. It should not be the mission of the state to accumulate.

In 1898 the outbreak of the war with Spain caused considerable excitement. The legislature hurriedly appropriated \$1,000,000 to defray the expenses of the national guard, the naval militia, and the volunteers of the state. They also authorized the issue of bonds to this amount, to run not longer than ten years and to bear interest not higher than 4 per cent.<sup>136</sup> As a matter of fact only \$200,000 was borrowed by the sale of 3 per cent. five year bonds. Expenditures for military purposes jumped from \$166,000 to \$516,000. The war and the enthusiasm were soon over, however, and expenditures, which in 1898 had passed the \$5,000,000 mark for state purposes, receded to normal proportions the following year. In 1900, however, they again passed this mark and this time permanently.

The year 1902 marked the practical abolition of the general property tax for state purposes in Ohio, the revenues from other sources having now been so developed that dependence could be placed upon them alone. Real estate was left to local taxation and personal property was taxed indirectly through corporations and other taxes. As a result of this policy it became possible to reduce the state levy on general property very materially: the levy for the general revenue fund was omitted, that for the sinking fund was fixed at .18 mills, and that for common schools at .95 mills. Although the state debt was extinguished the following year, it was necessary to retain the levy for the sinking fund, in order to pay the interest on the irreducible debt.<sup>137</sup> While this change caused a temporary decline in

<sup>136</sup>Act of April 8, 1898. *O. L.*, p. 97.

<sup>137</sup>The "irreducible debt" is a mere book-keeping device to show the amount of proceeds from the sales of school lands, which the state has used, and upon which it has pledged itself to pay interest at the rate of 6 per cent. forever for school purposes.

the state revenues, they quickly responded to the condition of general prosperity and by 1906 were larger than ever before in the history of the state.

The increase in state expenditures, which had been going on so steadily, was occasioned almost entirely by the construction of buildings for the care of the dependent, defective, and criminal classes of the community, and their maintenance. Over \$700,000 was spent on permanent improvements in 1902, and in the seven year period 1902-8 the appropriations for new institutions, new buildings, and betterments for institutions amounted to \$7,366,000.<sup>138</sup> Including three universities, the state of Ohio is now maintaining twenty-six institutions at an annual cost of about \$5,000,000.<sup>139</sup> The expenditures for these purposes make up over six-tenths of the ordinary state expenditures, and about half of the gross disbursements. Cut off from the exercise of its activities along lines of internal improvements by the constitution, and shut in on both sides by the growing financial importance of the federal government on the one hand and the local governments on the other, the state of Ohio, in common with most of the American commonwealths, has taken up earnestly and well the work of caring for the unfortunate classes of society. Next to this work in importance, though not in cost, would probably rank the less developed function of supervision and regulation, such as that exercised by the boards of pharmacy and medical registration, live-stock, dairy and food, and fish and game commissions, board of railroad and telegraph inspectors, etc. The item of industrial supervision and statistics, which does not include any of the above, amounts annually to about \$150,000.

#### CONCLUSION.

Our study of the budget in Ohio may now be briefly summarized and certain conclusions suggested. The early period of territorial and state finance, down to the year

<sup>138</sup>Aud. rep., 1908, p. 5.

<sup>139</sup>Gov. Mess. *Exec. Doc.*, 1908, I, 41.

1825, was marked by thrift and economy. The farmers and pioneers who composed the early legislatures were poor and hard working, unaccustomed to handle large sums of money or to think in large sums, and they ordered the household of the state frugally, as they did their own affairs. The time, moreover, had not yet come for joint effort through state action. Such concerted action as occurred was carried on through the local governments, as road and bridge building, but in general the period and the environment developed individualism rather than co-operation through political agencies. Consequently the state expenditures and revenues, except during the War of 1812, were kept down to as low a point as was consistent with the maintenance of an orderly state government.

The control of the budget, except for the legislative act of passing it, seems to have been centered largely in the hands of the administrative branch of the government. Statements of revenues were not regularly published until 1816, and those of expenditures not until 1822. Revenues were derived almost entirely from the tax on land, although this was supplemented after 1816 by a tax on banks and other minor receipts. Even such an important legislative function as fixing the rate of taxation was often left to the auditor with authority. The accounts of this period were simple, but not always well kept, or at least not rendered in good form to the legislature.

The period beginning with 1825 witnessed the initiation by Ohio of a comprehensive policy of internal improvements. The old system of land taxation was changed to that of the general property tax, though as yet in a modified form. But most of the revenue for this purpose was obtained by loans, together with miscellaneous receipts from the sale of land, gifts, etc. The state finances were administered carefully and economically, and the early canals were built on the whole cheaply. The legislature was composed of capable, honest, hard-working men, who did their best to keep down expenses.

But the system of accounts was loose and opened the



door to abuses which showed themselves during the later period of construction. Carried away by the prevailing enthusiasm, Ohio undertook about 1835 public works beyond the needs or the means of her citizens. The money, easily obtained by borrowing, was often carelessly spent. Canal funds were handed over to the canal board in the lump, and expended by them according to their discretion. The ordinary expenses of government, too, increased rapidly during this period, under the speculative influences of the period.

So far any looseness which had characterized the state finances was the result of carelessness or ignorance. But beginning with about 1845, there occurred a decade of legislative extravagance, of administrative dishonesty, and of private and corporate corruption, which happily is unique in the history of the state. It was a period of wretched financial management, of repeated deficits, of loans to be applied to current expenditures, of diversion of the sinking fund to uses other than the payment of the debt, of advance drafts on the next year's income, and of general financial juggling. Three successive treasurers were found to have defaulted in their accounts, their misdeeds having been aided and concealed through the connivance of bank officials and others.

Beginning with the year 1856, under Governor Chase, a thorough house-cleaning took place in both the legislative and executive branches of government. Various salutary acts were passed, debts were paid, the revenue laws enforced, and the state finances put in excellent order. By the time of the outbreak of the Civil War, Ohio was in splendid condition to assume the additional burdens imposed by that struggle.

As happens so generally responsibility brought with it care and good judgment. The legislature during the Civil War period showed itself able, economical yet not niggardly, and patriotic. And the people of the state responded loyally to their efforts. The administration of the finances was characterized by efficiency and probity. By

prompt resort to increased taxation adequate revenues were provided, and there was but little necessity for a resort to loans. Expenditures were also kept down, for non-military purposes, by a rigid economy, especially in the case of local units of government. The war governors—David Tod and John Brough—were men of high character and ability and unquestioned integrity. The latter characteristic was especially marked in Governor Brough, and it was said of him that he would leave his bed in the dead of night to investigate any act of official dishonesty that was reported to him.

After the war the budget of the state grew very rapidly, partly no doubt as a result of the rise in general prices, partly owing to the natural growth of the state and the assumption of new functions, but largely also because of legislative extravagance. The revenues were at first abundant and there seemed to be no need for continued economy. Such a policy, however, quickly plunged the state treasury into a series of deficits, which were met by advance drafts on the next year's receipts or by questionable if not illegal transfers from other funds. During this period the state undertook the care on a large scale of the defective, dependent, and depraved members of society, and expended large sums for the construction of buildings. Praiseworthy as this policy was, the planlessness with which it was carried out was chiefly responsible for the financial embarrassments that occurred.

Enforced economy characterized the years from 1873 to 1878, when the industrial depression that followed the panic of 1873 diminished the revenues and imposed a policy of retrenchment upon the legislature. With the revival of prosperity the general assembly embarked again upon a career of improvidence if not extravagance. They enlarged their appropriations without providing for additional revenue, with the natural result of chronic deficits and financial juggling to prevent actual insolvency of the treasury. Beginning with about 1895, however, a number of new and lucrative taxes were introduced, which greatly increased the revenues and restored equilibrium into the

state budget. The first decade of the present century saw the practical completion of the construction of public buildings, the payment of the debt, and the virtual abolition of the general property tax for state purposes. The state finances are now placed on a firm, stable basis, which should prevent the recurrence of any of the financial disorders that have characterized them in the past. Unfortunately no assurance is thereby given of stability, consistency, or farsightedness on the part of those who make the preliminary estimates or of those who finally pass the budget.

This thought suggests some of the conclusions which seem to the writer to be taught by the study of the budget in Ohio finance. The most striking feature, of recent years at least, has been the steady and strong pressure for the reduction of taxation. In the face of that pressure plans for enlarged expenditure have often been halted. The experience of Ohio seems to disprove the dictum that a finance minister—in this case a finance committee—estimates his needs first and then raises the requisite revenue. A very real limit is put to any plans for spending by the difficulty of raising the funds. As a consequence it is very difficult to lay down any far-reaching plans for the future. State finances suffer from the hand-to-mouth policy of an elective legislature and executive, chosen for short terms and anxious to be returned to office.

With the stripping of the legislature of much of its financial power, as was done by the state constitution of 1851, there has gone on a gradual deterioration in the character and purpose of the general assembly. Shorn of power, their field of expenditure limited, their chief interests are office and party politics; indeed there is little to attract good men. There is little or no conception of a scientific budget. Many good citizens believe that the state governments have so deteriorated that they can no longer be entrusted with the exercise of large financial powers. And so we come to a veritable *impasse* from which there seems to be no escape. We may, however, fairly conclude that the powers of a state legislature are

too important to be entrusted to inferior men. We need the best we can get, and in order to get them should make the office of legislator sufficiently important and dignified to attract good men. One method of doing this would be to restore their former financial powers to the legislature, and permit the undertaking of larger enterprises. The important interests involved would both make the office more attractive and call for greater care in the election of good men, and as a result of both processes we might expect to see the character of the legislative and executive branches of our state governments greatly improved.



TABLE I  
STATE COLLECTIONS AND DISBURSEMENTS<sup>1</sup>

Year Ending	Receipts	Disbursements	Balance	Appropriations
Nov. 5, 1800....	\$ 1,483	} i. e. audit- ed bills redeemed \$88,693 [average for each of six yrs \$14,782]	.....	i. e. bills
Dec. 10, 1801.....	17,639		.....	drawn on
1802.....	.....		.....	Treasurer,
			.....	or bills
March 9, 1803...	25,194		.....	issued.
Dec. 5, 1804....	22,505		\$ 9,000	\$ 14,917
Nov. 20, 1805...	22,033		161	20,008
Nov. 20, 1806....	28,626	28,685	102	22,103
Nov. 20, 1807....	21,611	21,017	697	19,207
Nov. 20, 1808....	20,206	20,902	1.	21,708
Nov. 20, 1809....	37,484	37,083	402	25,070
Nov. 20, 1810....	34,280	34,972	—290	35,361
Dec. 2, 1811....	48,481	48,175	16	45,289
Dec. 3, 1812....	51,515	42,975	8,556	31,130
Dec. 6, 1813....	53,210	35,581	26,185	37,002
Dec. 5, 1814....	117,788	139,123	4,749	35,489
Dec. 4, 1815....	265,573	265,368	4,954	135,586
Dec. 2, 1816....	312,343	312,650	4,646	265,526
Dec. 1, 1817....	198,513	204,767	—1,607	312,594
Dec. 7, 1818....	130,190	117,400	11,183	202,886
Dec. 6, 1819....	101,438	83,544	29,078	117,632
Dec. 4, 1820....	93,804	85,793	26,078	86,992
Dec. 3, 1821....	94,569	96,777	23,869	112,460
Nov. 15, 1822....	81,040	78,995	25,915	100,774
Nov. 15, 1823....	124,352	101,077	49,189	77,470
Nov. 15, 1824....	121,401	107,055	63,535	69,889
				95,621

TABLE I  
STATE COLLECTIONS AND DISBURSEMENTS

Year Ending Nov. 15	Gross receipts as given by auditor	Gross expenditures as given by auditor	Loans and Transfers to other funds [column 2 less 4]	Real expenditures for State purposes [i. e. auditor's bills redeemed]	Balance as given by Auditor [difference between 1 and 2]	Payments, i. e. payments made on account of appropriations	Unexpended balances	Appropriations [i. e. 6 + 7]
1825 .....	130,892	145,219	16,434	128,785	49,207	126,340	8,127	134,467
1826 .....	129,677	114,026	3,528	110,498	64,858	109,757	10,199	119,956
1827 .....	133,050	143,434	44,940	98,494	54,475	98,197	9,333	107,530
1828 .....	189,484	220,600	62,585	164,075	17,299	163,777	3,770	167,546
1829 .....	205,625	207,301	67,630	139,671	15,623	139,878	4,978	144,856
1830 .....	200,305	209,708	117,355	92,353	0,280	92,485	7,028	.....
1831 .....	235,986	236,191	127,651	108,541	6,075	111,125	8,482	.....
1832 .....	265,217	250,508	130,432	120,076	20,785	117,306	24,645	.....
1833 .....	277,955	288,740	150,942	131,798	10,000	130,888	40,477	.....
1834 .....	351,377	277,950	114,166	103,784	—16,623	164,038	44,900	.....
1835 .....	201,767	235,366	.....	182,960	—33,999	185,853	33,685	.....
1836 .....	301,059	230,061	.....	109,023	31,340	168,009	20,374	.....
1837 .....	296,522	287,561	.....	102,014	40,308	109,937	42,531	.....
1838 .....	411,449	324,703	.....	229,178	127,055	230,262	33,457	.....
1839 .....	538,851	632,823	.....	267,076	23,083	266,331	38,849	.....
1840 .....	183,415	295,091	365,747	222,408	11,407	223,155	51,242	.....
1841 .....	244,426	192,280	72,683	191,702	63,553	191,320	69,490	.....
1842 .....	228,671	227,863	578	202,084	64,361	202,677	53,344	.....
1843 .....	263,909	233,462	25,779	180,780	94,868	.....	.....	.....
1844 .....	277,155	239,141	44,767	194,374	132,822	.....	.....	.....

TABLE Ia.—STATE COLLECTIONS AND DISBURSEMENTS

TABLE Ib.—GENERAL REVENUE FUND							
Year	Gross receipts, including state, revenue, common school funds, canal taxes, tolls, etc.	Gross Disbursements for state, school fund, canals, etc.	Balance	Receipts for support of government	Disbursements, i. e. Audited bills redeemed	Balance	Appropriations, i. e. bills drawn on treasury
1815	\$1,383,456	\$1,660,838	\$232,594	154,532	201,213	86,143	.....
1816	2,081,384	2,038,027	247,518	163,788	192,702	57,229	193,324
1817	2,044,785	2,397,606	494,698	222,757	211,879	68,107	194,106
1818	2,447,302	2,541,949	426,452	232,107	238,462	61,751	218,467
1819	2,511,110	2,383,136	555,435	277,807	397,166	32,452	307,176
1820	453,358	2,601,582	130,512	275,911	391,186	82,824	392,075
1821	287,967	2,606,370	312,699	395,675	478,686	—	457,990
1822	301,640	27,36,061	593,042	748,333	537,844	14,955	.....
1823	2,895,908	2,696,119	702,831	720,380	533,696	7,339	701,500
1824	3,715,103	3,893,253	581,681	611,159	602,438	43,048	524,418
1825	3,631,173	3,512,484	703,370	645,888	446,973	154,067	451,503
1826	3,588,351	3,712,296	579,518	823,521	976,723	47,65	1,000,108
1827	3,189,150	3,641,734	726,940	612,607	641,926	285,758	781,005
1828	3,758,722	3,515,459	970,203	747,476	787,064	547,344	746,651
1829	3,520,153	3,552,995	103,277	747,476	782,516	101,593	710,751
1830	3,556,370	3,683,438	66,209	704,200	801,224	4,500	.....
1831	5,362,067	5,294,030	120,176	708,090	787,390	16,148	.....
1832	6,230,323	5,860,043	478,456	1,381,410	1,114,523	260,015	.....
1833	5,545,069	5,075,975	948,447	683,698	827,096	423,787	.....
1834	7,731,520	6,679,066	2,000,960	1,029,876	1,053,049	397,623	.....
1835	11,189,951	12,434,825	756,086	2,600,387	2,274,729	183,280	.....
1836	7,699,662	7,434,497	1,021,251	1,325,140	1,339,817	108,693	.....
1837	5,155,703	5,498,964	677,990	1,830,818	1,603,850	222,157	.....
1838	4,347,466	4,455,355	570,121	1,438,598	1,518,210	142,545	.....
1839	4,781,614	4,913,675	438,060	1,579,540	1,577,221	144,864	.....
1840	4,399,933	4,071,955	766,038	1,057,038	1,045,136	445,578	.....
1841	5,241,185	5,259,047	748,176	1,072,409	2,161,838	256,149	.....
1842	4,757,798	5,058,435	447,539	2,014,454	2,150,209	150,304	.....

TABLE Ia.—STATE COLLECTIONS AND DISBURSEMENTS

1873	....	4,690,629	5,008,581	129,586	TABLE Ib.—GENERAL			FUND
					1,577,235	829,815	21,108	
1874	....	5,768,789	5,085,979	812,397	1,024,588	725,864	193,875	.....
1875	....	5,325,102	4,707,811	1,429,778	853,961	624,903	115,290	.....
1876	....	5,159,668	6,003,617	585,829	703,390	673,815	144,865	.....
1877	....	5,127,594	4,720,414	987,009	698,529	604,874	148,520	.....
1878	....	5,581,539	5,649,853	918,095	1,101,610	1,100,946	119,184	.....
1879	....	5,730,170	5,653,752	995,113	3,640,410	3,440,832	199,578	.....
1880	....	6,107,405	5,866,626	1,235,892	3,750,852	3,648,997	301,433	.....
1881	....	6,005,582	6,740,053	501,421	3,083,987	3,130,997	254,513	.....
1882	....	5,768,975	5,630,219	649,177	3,157,626	2,998,783	413,356	.....
1883	....	5,228,414	5,083,116	785,475	2,768,751	2,503,231	618,876	.....
1884	....	5,381,863	5,450,650	716,718	2,898,563	2,919,786	587,653	.....
1885	....	5,046,551	5,509,230	254,039	2,539,512	3,020,027	98,138	.....
1886	....	5,775,993	5,573,721	456,221	3,256,621	3,081,964	272,795	.....
1887	....	6,055,869	6,289,811	222,279	2,853,329	3,000,810	65,364	.....
1888	....	5,896,189	5,908,743	119,725	3,310,716	3,349,328	26,752	.....
1889	....	5,947,995	5,685,970	381,050	3,353,095	3,350,483	22,364	.....
1890	....	5,853,978	5,832,751	402,587	3,534,440	3,484,866	71,998	.....
1891	....	7,069,295	6,101,290	1,370,592	3,751,403	3,541,856	281,545	.....
1892	....	5,544,491	6,158,871	756,412	3,797,676	3,777,564	211,057	.....
1893	....	6,052,156	6,100,229	618,339	3,731,496	3,805,138	138,015	.....
1894	....	6,559,555	6,375,629	802,205	4,199,608	3,982,895	354,728	.....
1895	....	6,035,156	6,203,572	633,849	3,974,606	3,795,521	233,673	.....
1896	....	6,492,336	6,601,260	525,125	4,154,000	4,101,215	106,548	.....
1897	....	7,206,152	6,966,778	764,499	4,687,096	4,432,044	451,600	.....
1898	....	7,723,328	7,658,853	828,974	5,172,147	5,030,720	504,027	.....
1899	....	7,658,095	7,290,092	1,196,977	5,102,375	4,660,277	1,033,632	.....
1900	....	8,031,818	7,707,884	1,520,911	5,222,355	5,104,270	1,151,217	.....
1901	....	8,036,429	7,873,616	1,683,224	5,227,178	5,106,731	1,226,664	.....
1902	....	9,855,524	7,967,003	3,572,245	6,096,095	5,294,537	2,890,122	.....
1903	....	7,715,570	8,323,267	2,964,557	4,991,457	5,425,924	2,434,655	.....
1904	....	8,427,578	8,336,237	2,556,198	5,610,577	6,043,002	2,002,230	.....
1905	....	9,298,177	8,866,497	2,087,878	6,397,271	6,019,675	2,280,826	.....
1906	....	10,686,546	9,328,391	3,746,033	7,050,781	6,440,766	2,899,991	.....
1907	....	10,891,440	9,555,622	5,081,851	7,767,028	6,542,599	4,124,330	.....
1908	....	11,636,873	11,515,589	5,203,135	8,558,912	8,104,494	4,488,748	.....



## FOOTNOTES TO TABLE I.

The material in this table, from 1800 to 1824, is taken from the report of the auditing committee, in *House Journal*, 1825, pp. 16-20. The figures do not agree with those given in the annual auditors' reports, but as the latter do not agree with one another, the former have been preferred. The auditors' reports have been chosen rather than those of the treasurer, since the former report by fiscal year, the latter from December to December on the day when the books were closed for the purposes of the annual report. The two are consequently not comparable.

1803—The appropriations are for the period, March 25-Dec. 6.

1804—There was a probable deficit of about \$9000 instead of a balance.

1809—Receipts include a loan of \$9000 from the three per cent. fund, which bore interest at six per cent.

1810—This same loan appears among the disbursements and also appropriations the following year, when it was repaid, Jan. 5, 1810. With interest it amounted to \$9472.50.

1814—Receipts and appropriations are both swelled by a loan of \$55,000, authorized by act of Dec. 28, 1813, to meet the state's quota of the federal direct tax. This and two other loans for the same purpose were repaid out of taxes, which were increased considerably.

1820—A difference of \$11,112 in the balance represents the deficit or defalcation of the treasurer.

1825—A new system of book-keeping is introduced, which continues through 1842, and makes possible a fuller statement.

1834—Under balance there is a deficit; this is also true of 1835.

1843—For 1843 and 1844 the appropriations are given separately for each item and there is a multiplicity of funds—thirty-seven under the head of the general revenue fund alone. It was consequently impossible without enormous and unprofitable labor to disentangle these items.

1845—Still another mode of stating the accounts is put into operation this year. The gross receipts and disbursements are given separately from the general revenue fund. From this date on both are given in this table.

1846—The auditor's report for this year gives the balance in the gross table for 1845 as \$204,161, but the figure given in the table is undoubtedly correct.

1847—Under disbursements of the general revenue fund is included an item of \$2066, which was a judgment against the state.

1850—There was a deficit instead of a balance in the general revenue fund; this was also true in 1851 and 1854.

1851—Among the disbursements of the general revenue fund are included old war claims, uncurrent money in the treasury, etc., to the amount of \$23,190.

- 1852—The receipts of the general revenue fund include \$250,000, transferred by act of May 1, 1852, from the principal of the surplus revenue fund. The amount of appropriations for this year was not given by the auditor.
- 1853—The appropriations include unexpended balances for 1852.
- 1856—The gross balance in the hands of the state contained \$228,567 of deposits in failed banks, which were stricken from the books this year. The receipts in the general revenue fund were swelled by transfers from the sinking fund. Under appropriations is included a special appropriation of \$493,138 to pay the indebtedness on the State House, the lunatic asylum, penitentiary, and other buildings.
- 1858—The state treasurer defaulted for \$744,084, which reduced the balance to \$226,119; a loan was affected for \$700,000 with premium of \$4658, which appears among the gross receipts. The general revenue fund was also affected by the defalcation of the treasurer, as \$411,312 belonged to this fund; consequently the real balance was only \$136,032. The receipts contain a part of the loan of \$700,000, namely \$405,978.
- 1859—The disbursements of the general revenue fund include \$64,853 of bad claims and counterfeit notes, which were stricken from the books.
- 1860—The disbursements of the general revenue fund include a transfer of \$135,041 to the canal fund.
- 1867-1872—The general revenue fund is swelled unduly, both on the side of receipts and disbursements, during these years, by the frequent transfers from one fund to another. The disbursements for 1867 do not include \$113,414 which had been borrowed and was repaid to the sinking fund this year.
- 1869—The canal and asylum funds were merged with general revenue fund, adding \$8,812 to the balance. They were soon restored to an independent footing, however.
- 1873—Transfers to other funds from general revenue accounts, amounting to \$876,706, are not included under disbursements.
- 1874-76—The asylum and other funds are inextricably confused with the general revenue fund.
- 1879—By act of March 25, 1879, these various distinct funds are now consolidated with the general revenue fund.
- 1889—Advance drafts were drawn by the state auditor on the counties for \$100,000.
- 1890—The same operation was repeated to the amount of \$185,000.
- 1891—The gross receipts contain an item of \$1,332,026, received from the federal government in repayment of the direct tax, levied on Ohio in 1861.

TABLE II.  
GENERAL REVENUE.

	1	2	3	4	5	6	7	8	9
Year	Paid into treasury by county collectors for State purposes	For taxes on lands on record in Auditor's office, thru his office	Taxes on lands in arrears for taxes	Paid into treasury for county and township purposes	Paid on next year's levy	Paid for redemption of lands sold for taxes	Paid on lands delinquent for taxes and from sale of lands for taxes	Sale of public lands	Public w'ks (salt works 1814-1827; canals 1828—date)
1814..	54,885	.....	7,189	.....	.....	.....	.....	.....	81
1815 <sup>1</sup> ..	.....	.....	.....	.....	.....	.....	.....	.....	.....
1816 ..	191,079	.....	10,265	.....	.....	.....	.....	.....	265
1817 ..	149,739	12,588	.....	.....	.....	.....	.....	.....	69
1818 ..	108,616	19,670	.....	.....	.....	.....	.....	.....	129
1819 ..	74,930	22,669	.....	.....	.....	.....	.....	.....	100
1820 ..	59,911	19,444	.....	.....	.....	.....	.....	.....	75
1821 ..	59,091	20,018	.....	.....	.....	.....	.....	.....	110
1822 ..	51,096	21,634	1,576	.....	.....	.....	.....	.....	195
1823 ..	84,546	15,853	18,369	.....	.....	.....	.....	.....	120
1824 ..	80,690	19,971	6,378	.....	.....	.....	13,946	.....	132
1825 ..	62,256	18,165	2,550	.....	.....	.....	13,413	.....	153
1826 ..	83,203	20,615	1,736	.....	.....	3,173	8,071	2,112	40
1827 ..	102,657	1,036	2,118	3,760	833	1,017	10,482	1,780	65
1828 ..	165,265	6,612	.....	7,269	2,675	.....	2,397	483	563
1829 ..	167,357	6,093	4,832	8,393	1,460	333	.....	.....	12,179
1830 ..	173,529	6,552	2,849	8,788	369	184	.....	.....	.....
1831 ..	208,739	6,526	869	9,697	701	304	860	.....	.....
1832 ..	219,935	6,344	1,068	9,242	636	.....	13,534	.....	.....
1833 ..	242,309	5,846	.....	9,415	525	.....	3,063	.....	.....
1834 ..	216,995	12,343	.....	.....	204	.....	795	.....	.....
1835 ..	150,081	11,224	390	.....	350	.....	1,713	.....	.....
1836 ..	136,615	15,051	307	.....	377	.....	.....	.....	.....
1837 ..	210,847	12,485	427	.....	649	.....	.....	.....	.....

<sup>1</sup>Tax on attorneys and counsellors at law, practicing physicians and surgeons, and license to peddlers and traveling merchants.

<sup>2</sup>Same as 1, and auctions added.

<sup>3</sup>Banks, and insurance and bridge companies.

<sup>4</sup>Peddlers and insurance companies.

<sup>5</sup>Foreign insurance companies.

<sup>6</sup>The report of the auditor for 1815 was not published in either *House* or *Senate Journal*; the total is taken from the Report of the Auditing Committee, 1825.

TABLE II.  
GENERAL REVENUE.

10	11	12	13	14	15	17	18	19	36
Banks	Tax on process and procs. in courts of law and equity	License for traveling mer- chants and ped- dlers	Miscellaneous	Transferred from other funds	Loans	Lawyers and physicians	Insurance companies	Ohio penitentiary	Total
.....	.....	.....	532	.....	55,000	.....	.....	.....	117,689
.....	.....	.....	.....	.....	.....	.....	.....	.....	265,573
5,677	100	.....	119	.....	104,000	.....	.....	.....	311,506
7,256	189	.....	.....	.....	32,000	.....	.....	.....	196,330
1,717	59	.....	.....	.....	.....	.....	.....	.....	130,190
1,174	.....	.....	.....	.....	.....	.....	.....	2,566	101,438
933	.....	.....	23	.....	.....	.....	.....	13,987	93,804
692	.....	.....	563	5,000	.....	.....	.....	9,295	94,569
.....	.....	55	1,958	1,846	.....	.....	.....	2,680	81,040
.....	.....	.....	11	3,852	.....	.....	.....	1,600	124,352
.....	21	250	14	.....	.....	.....	.....	.....	121,401
.....	.....	171	13	25,509	.....	.....	.....	.....	130,892
2,141	.....	154	986	5,094	.....	.....	.....	.....	127,324
1,870	.....	1,200 <sup>1</sup>	1,400	4,834	.....	.....	.....	.....	132,825
2,608	.....	1,501 <sup>1</sup>	110	.....	.....	.....	.....	.....	189,484
2,650	.....	1,806 <sup>2</sup>	522	.....	.....	.....	.....	.....	232,261
4,980	.....	2,700 <sup>1</sup>	367	.....	.....	.....	48	.....	200,365
3,914	.....	2,906 <sup>1</sup>	608	.....	.....	.....	77 <sup>2</sup>	.....	235,986
8,288 <sup>3</sup>	.....	3,523 <sup>1</sup>	3,350	.....	.....	.....	.....	.....	265,217
13,035 <sup>2</sup>	.....	2,934 <sup>1</sup>	1,545	.....	.....	.....	.....	.....	277,955
16,080 <sup>3</sup>	.....	598	2,766	.....	.....	1,588	.....	.....	251,377
26,061 <sup>1</sup>	.....	924 <sup>1</sup>	231	9,193	.....	1,598	.....	.....	201,767
74,802 <sup>3</sup>	.....	1,167	3,806	67,351	.....	1,492	.....	.....	301,059
64,932 <sup>2</sup>	.....	1,086	1,600	2,252	.....	1,011	334 <sup>3</sup>	.....	327,868

Note on 1.

1878—Amount of drafts upon county treasurer, including drafts of \$200,000 made in anticipation of taxes due at semi-annual settlement.....	\$ 402,000
1879—Same as above.....	800,000
1880—Same as above.....	1,158,000
1882—Drawn in anticipation of taxes.....	450,000

Note on 8.

1874—Amount received for sale of C. O. L. Asylum grounds....	42,441
1878—Received interest on notes for Central Ohio Lunatic grounds.....	3,955
1896—P. C. C. & St. L. Ry. Co. sale Hamilton basin and Eggleston Ave.....	75,000



TABLE II.  
GENERAL REVENUE

	1	2	3	6	7	9	10	11
Year	Paid into treasury by county collec- tor for state purposes	For taxes on lands on record in Aud. office, thru his office	Taxes on lands in arrears for taxes	Paid in redemp- tion of lands sold for taxes	Paid on land delin- quent for taxes or from sale of lands for taxes	Public Works [salt wks 1814-27] [canals 1828-]	Tax on banks, Ins. and bridge companies	Brokers, stage companies, and joint stock Cos.
1838 ..	313,634	16,064	1,924	.....	260	.....	46,581	.....
1839 ..	396,559	16,021	6,041	59	299	9,500	75,230	.....
1840 ..	201,697	2,184	5,769	.....	236	164	.....	.....
1841 ..	204,489	2,669	11,769	.....	739	.....	.....	.....
1842 ..	197,798	7,477	8,911	439	2,874	.....	.....	.....
1843 ..	199,469	17,149	10,112	3,284	337	.....	.....	.....
1844 ..	181,768	20,557	20,679	27,550	.....	.....	.....	.....
1845 ..	124,868	21,931	10,733	3,538	203	.....	.....	.....
1846 ..	964,486	24,662	.....	.....	.....	.....	5,432	1,094
1847 ..	1,137,528	32,170	.....	.....	3,580	.....	1,483	11,140
1848 ..	1,088,076	25,486	109	.....	14,214	.....	.....	8,316
1849 ..	1,204,127	32,216	.....	.....	2,297	.....	.....	11,032
1850 ..	1,236,176	37,380	.....	.....	5,386	.....	.....	.....
1851 ..	1,338,457	59,335	.....	.....	270	.....	1,513	11,360
1852 ..	1,577,604	59,621	.....	.....	2,197	.....	.....	6,551
1853 ..	1,674,771	.....	.....	.....	337	.....	.....	.....
1854 ..	559,132	.....	.....	.....	.....	.....	7,359	.....
1855 ..	566,448	.....	.....	.....	.....	.....	4,224	.....
1856 ..	501,404	.....	.....	.....	.....	.....	226,407	.....
1857 ..	792,254	.....	.....	.....	.....	.....	31,462	.....
1858 ..	572,005	.....	.....	.....	.....	.....	793	.....
1859 ..	581,242	.....	.....	.....	.....	.....	30,929	.....
1860 ..	553,799	.....	.....	.....	.....	.....	46,185	.....

Note on 9.

1839—Amount paid by turnpike companies.....	9,500
1849—Turnpike and canal dividends.....	29,838
1850—Tolls on Western Reserve and Maumee and National Road under this head.	
1852—Turnpike and canal and railroad dividends on stocks owned by the state.....	45,031
1855—Ohio Rail-Road.....	100
1861—Interest on S. M. & N. R. R. bonds.....	441
1862—Sale of S. M. & N. R. R. bonds.....	771
1870—Received from lessees of Public Works for rent.....	20,075
1870—Received for rent State Quarry.....	245
1870—Received for National Road bonds cancelled.....	60
1874—Received from lessees of Public Works and income of Western Reserve and Maumee Road.....	24,930

TABLE II.  
GENERAL REVENUE

12	13	14	15	17	18	19	20	36
Licenses for traveling merch- ants and peddlers	Miscellaneous	Transferred from other funds	Loans	Lawyers and Physicians	Insurance companies	Ohio Penitentiary	Auctioneers and auction Duties	Total
799	1,332	19,073	.....	2,501	237 <sup>5</sup>	9,044	.....	451,757
1,003	11,298	.....	.....	3,568	332	9,000	.....	655,906
2,442	281	52,142	.....	4,043	611	14,000	.....	306,498
1,857	1,041	.....	.....	4,081	409	14,000	.....	255,833
2,984	7	.....	.....	4,497	685	3,000	.....	292,224
4,167	1,275	.....	.....	4,980	558	19,000	3,580	328,270
4,954	1,047	.....	.....	5,131	526	10,929	4,017	371,963
.....	2,547	.....	.....	.....	850	.....	.....	164,665
4,792	38	.....	.....	4,909	.....	.....	4,018	1,009,432
.....	881	.....	.....	.....	868	.....	3,253	1,202,528
6,259	409	.....	.....	6,933	1,542	.....	4,158	1,155,502
6,098	742	.....	.....	6,650	1,931	.....	4,874	1,270,272
6,400	5,104	.....	.....	6,891	3,028	.....	.....	1,314,344
5,432	2,337	.....	.....	7,391	.....	.....	2,970	1,428,975
4,716	3,768	.....	.....	7,295	2,209	.....	2,199	1,670,955
3,967	5,403	.....	.....	.....	.....	.....	3,321	1,687,798
3,978	4,547	.....	.....	.....	.....	33,522	2,612	611,150
3,058	6,551	.....	.....	.....	.....	64,250	1,357	645,888
2,703	2,246	30,000	.....	.....	.....	56,156	1,606	975,489
2,293	4,015	.....	.....	.....	.....	80,605	1,978	927,685
2,471	4,878	.....	405,978	.....	.....	65,778	1,975	1,053,878
2,938	22,944	.....	.....	.....	.....	85,427	2,597	884,108
1,745	25,055	.....	.....	.....	.....	98,510	907	805,792

1878—Received for canal tolls and water rents..... 112,760

Note on 11.

1846—The heading of this column changed to Brokers, Stage  
Co's & Joint Stock Co's.

Note on 12.

1850—Taxes on professions, peddlers' license, foreign insurance  
co's, auctions and joint stock co's all under one head.

Note on 14.

1862—Amount transferred from Military to Civil contingent fund 457

1862—Amount transferred from 3% fund..... 19

Note on 23.

Under this comes materials sold by stewards of asylums,  
waste paper by state printer, materials such as old carpets,  
furniture, etc., from state buildings.

TABLE II.  
GENERAL REVENUE

	1	8	9	10	12	13	14	15
Year	Paid into treasury by county collec- tors for state purposes	Sale of public lands	From Pub. Works [Salt wks 1814-27] [Canals 1828]	Tax on banks, Ins. and bridge companies	License for trav- eling merchants and peddlers	Miscellaneous	Transferred from other funds	Loans
1861 ..	685,029	.....	441	28,674	1,018	5,439	.....	.....
1862 ..	1,226,512	.....	1,152	9,735	749	36,088	476	.....
1863 ..	884,863	.....	.....	.....	1,202	4,435	.....	.....
1864 ..	924,898	.....	.....	.....	1,786	4,719	.....	.....
1865 ..	985,906	.....	.....	.....	2,085	921,237	.....	63,400
1866 ..	1,042,504	.....	.....	.....	3,107	117,893	37,000	.....
1867 ..	1,066,138	.....	.....	.....	2,087	402,627	203,726	.....
1868 ..	1,083,423	.....	.....	.....	2,333	155,536	600	.....
1869 ..	1,117,854	.....	.....	.....	1,577	143	246,900	.....
1870 ..	1,381,161	.....	20,380	.....	958	1,238	.....	.....
1871 ..	1,713,125	11,150	25,014	.....	1,247	804	.....	.....
1872 ..	1,616,154	21,400	27,059	.....	2,025	4,685	155,358	.....
1873 ..	1,647,896	11,795	27,252	.....	1,021	5,321	258,922	.....
1874 ..	924,705	42,441	24,930	.....	1,156	359	.....	.....
1875 ..	776,704	19,267	24,731	.....	1,564	180	410	.....
1876 ..	626,835	13,561	34,381	.....	1,108	150	.....	.....
1877 ..	627,354	19,129	24,866	.....	794	819	.....	.....
1878 ..	1,016,592	3,955	117,025	.....	1,064	353	.....	.....
1879 ..	2,936,017	20,420	217,585	.....	517	28,459	.....	.....
1880 ..	3,286,828	1,296	237,241	.....	206	342	.....	.....
1881 ..	2,603,851	64	202,444	.....	5,052	10,660	13,971	.....
1882 ..	2,646,777	409	189,243	.....	939	72,050	.....	.....
1883 ..	2,246,592	4,476	156,906	.....	.....	83,348	.....	.....
1884 ..	2,297,812	16,165	136,827	.....	.....	101,413	.....	.....
1885 ..	2,134,485	39,657	118,258	.....	.....	19,201	.....	.....

Note on 31.

1889—Fees and amounts in excess. The fees of State School Examiners, Secretary of State, Clerk of Supreme Court, Dairy and Food Commissioners, conscience money and amounts overdrawn and refunded.

1896—Fees from Dairy and Food Commission..... 3,544

1903—(a) Initiatory and Miscellaneous fees from Secretary of State ..... 304,510

TABLE II.  
GENERAL REVENUE

18	19	20	21	22	23	24	25	36
Insurance companies	Ohio Penitentiary	Auction Duties	Show licenses and Escheats	Pay pupils and patients in Institutions	Materials sold by state officers, institutions, etc.	Gas companies	Liquor tax	Totals
.....	76,208	553	1,607	.....	.....	.....	.....	803,538
.....	88,461	214	1,905	.....	.....	.....	.....	1,381,438
.....	90,875	68	2,525	.....	.....	.....	.....	1,250,883
.....	90,748	142	2,451	2,132	.....	.....	.....	1,450,663
.....	87,718	4	.....	.....	.....	.....	.....	2,458,010
714	120,912	214	2,795	.....	.....	.....	.....	1,508,420
1,668	147,275	252	2,439	2,730	.....	1,700	.....	1,999,421
16,914	173,696	1,142	2,309	1,887	.....	659	.....	1,438,598
19,325	179,378	1,192	2,526	1,253	.....	9,393	.....	1,722,086
23,104	184,857	885	3,633	537	7,618	3,274	.....	1,722,510
24,581	186,849	685	3,316	.....	3,070	2,569	.....	2,417,987
25,929	180,591	582	3,683	140	3,228	3,619	.....	2,300,603
26,126	3,258	262	2,411	.....	2,598	2,947	.....	2,140,203
19,271	.....	311	3,439	.....	4,669	3,246	.....	1,045,696
23,826	.....	595	2,321	.....	1,561	3,211	.....	1,048,247
24,406	.....	525	1,649	.....	3	711	.....	818,680
22,334	.....	287	1,595	.....	1,343	8	.....	843,394
19,585	.....	498	1,449	.....	1,090	.....	.....	1,310,130
20,989	175,935	342	2,054	.....	1,307	.....	.....	3,640,410
20,608	196,963	135	478	50	6,705	.....	.....	3,950,430
21,665	209,691	413	6,636	.....	12,948	.....	.....	3,385,420
19,010	220,352	796	4,024	.....	3,422	.....	550	3,412,140
27,457	250,729	568	2,787	.....	5,648	.....	.....	3,182,107
43,271	229,187	541	3,047	.....	6,481	.....	53,819	3,507,440
39,400	183,418	348	1,876	.....	1,886	.....	974	3,127,166

1903—(b) Domestic Corporations..... 477,766

1903—(c) Foreign Corporations..... 217,550

This is the first time the above have appeared.

1904—(a)..... 209,080

1904—(b)..... 519,577

1904—(c)..... 185,367

1905—(a)..... 330,270

1905—(b)..... 753,133



TABLE II. GENERAL REVENUE.

Year	I	5	8	9	13	15	18	19	20	21	23	25
	Paid into treasury	Paid on next year's levy	Sale of public lands	Public Works	Miscellaneous	Loans	Insurance Companies	Ohio Penitentiary	Auction Duties	Show Licenses	Materials sold by state officers, etc.	Liquor Tax
1886..	2,320,604	.....	19,732	127,302	29,862	500,887	38,500	215,257	181	2403	1,767	.....
1887..	2,339,819	80,000	7,344	139,380	33,098	.....	37,850	210,759	322	2,054	2,030	.....
1888..	2,387,951	100,000	4,303	106,128	77,338	250,000	34,350	224,620	253	1,491	2,570	.....
1889..	2,413,086	100,000	5,801	108,051	6,406	.....	35,955	218,795	189	2,134	1,493	400,324
1890..	2,448,023	185,000	6,741	97,415	9,677	.....	54,977	221,147	122	1,281	1,285	401,823
1891..	2,486,051	.....	3,407	105,247	341,004	.....	53,287	247,745	244	1,974	402	525,003
1892..	2,397,818	.....	8,036	210,948	85,154	.....	58,180	218,267	226	1,274	688	537,057
1893..	2,499,300	.....	8,365	89,729	89,276	.....	60,244	260,082	204	1,594	280	595,132
1894..	2,441,933	.....	8,738	107,011	547,346	500,127	103,008	226,612	161	1,952	2,223	522,427
1895..	2,427,309	.....	12,498	92,820	15,355	.....	102,580	220,768	131	1,822	482	577,080
1896..	2,411,274	.....	100,242	96,711	18,873	.....	111,522	262,741	115	1,771	541	780,385
1897..	2,441,971	.....	14,841	91,494	16,925	.....	116,727	267,366	62	1,116	103	1,002,479
1898..	2,465,901	.....	2,298	79,870	305,993	200,111	131,448	307,620	116	1,206	20	1,024,325
1899..	2,479,208	.....	25,000	90,129	280,781	.....	142,784	331,010	82	1,744	4,347	1,058,235
1900..	2,523,109	.....	4,592	81,107	170,526	.....	138,037	293,959	57	1,375	1,740	1,118,618
1901..	2,568,289	.....	2,149	81,596	38,668	.....	180,875	252,513	88	1,399	1,525	1,131,077
1902..	2,759,920	.....	7,369	89,508	482,518	.....	565,530	248,511	73	1,490	2,042	1,144,063
1903..	93,020	.....	4,281	104,440	65,726	.....	668,002	205,625	75	1,317	1,444	1,239,076
1904..	20,252	.....	87,638	33,176	33,176	.....	1,052,703	241,113	211	1,368	618	1,274,687
1905..	12,097	.....	20,071	105,757	107,101	.....	1,038,893	250,497	203	1,263	818	1,209,307
1906..	10,921	.....	.....	92,499	250,544	.....	950,085	293,695	152	1,168	.....	2,037,758
1907..	596	.....	114,520	273,318	273,318	.....	816,253	297,882	66	803	.....	2,788,523
1908..	68	.....	.....	93,315	414,016	.....	1,261,378	290,856	98	1,267	.....	2,643,264
1909..	85	.....	.....	138,238	643,047	.....	1,010,277	261,750	28	877	.....	2,041,138

TABLE II. GENERAL REVENUE.

Year	26	27	28	29	30	31	32	33	34	35	35a	36
	Irish and Game Commission	Commissioner of Railways and Telegraphs	Inheritance Taxes [Direct and Collateral]	Excise Taxes [Express Companies and Sleeping Cars]	Examiner of Stationary Engines	Fees and Amounts in excess [see note on p. 128]	Cigarette Traffic Taxes	Ohio Soldiers' and Sailors' Home	Boards of Pharmacy and Medical Registration and Examination	Collections of Ohio State Re-form Farm	Fines for violation of laws	Total
1886..	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3,354,759
1887..	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3,126,174
1888..	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3,200,717
1889..	.....	.....	.....	.....	.....	90,733	.....	11,366	.....	.....	802	3,481,847
1890..	.....	.....	.....	.....	.....	83,664	.....	37,613	.....	.....	730	3,661,805
1891..	.....	.....	.....	.....	.....	93,552	.....	77,584	.....	.....	123	4,008,401
1892..	.....	.....	.....	.....	.....	200,621	.....	87,741	.....	.....	1,660	3,980,221
1893..	.....	.....	.....	.....	.....	242,993	.....	83,256	.....	.....	3,214	3,943,153
1894..	.....	.....	.....	.....	.....	126,213	10,188	68,492	.....	.....	11,017	4,337,623
1895..	.....	.....	.....	.....	.....	120,937	11,997	92,181	.....	.....	18,408	4,039,395
1896..	.....	15,355	14,604	9,967	.....	124,691	12,817	120,316	36,000	.....	17,447	4,387,763
1897..	.....	14,718	1,477	40,757	.....	74,115	13,524	84,205	16,123	.....	1,318	4,883,644
1898..	1,799	14,970	24,887	526,750	.....	100,535	13,491	140,386	17,563	7,263	96	5,023,747
1899..	6,702	14,837	17,547	384,124	.....	228,324	13,644	116,756	10,331	10,246	.....	5,096,402
1900..	811	15,179	22,943	580,951	.....	139,094	13,332	128,672	7,340	8,274	1,000	6,255,087
1901..	902	15,000	13,525	605,940	13,230	253,622	13,524	99,872	2,500	10,964	9,838	6,423,395
1902..	1,368	15,000	13,055	594,367	16,319	796,618	13,037	142,720	13,000	11,461	2,094	8,133,659
1903..	2630	17,500	39,276	1,348,887	13,104	1,014,740	13,763	122,627	9,300	14,266	5,405	7,800,579
1904..	3,431	17,484	77,299	1,646,088	23,795	955,635	14,559	119,862	10,800	13,426	5,939	8,015,232
1905..	3,572	17,516	406,744	1,816,509	28,198	1,085,315	14,019	85,583	10,500	7,478	7,567	8,390,501
1906..	9,179	17,500	124,457	1,778,524	29,404	1,299,516	15,008	158,537	11,500	9,392	.....	7,050,781
1907..	14,517	17,500	20,571	1,923,894	31,024	1,356,336	18,253	130,678	11,212	8,453	.....	7,797,028
1908..	17,509	24,554	2,299,910	2,299,910	31,578	1,313,239	19,720	128,055	7,000	10,101	.....	8,558,912
1909..	15,774	17,500	45,139	2,212,085	36,014	1,412,781	23,000	132,739	18,200	9,587	.....	8,043,256

## Note on 13.

1839—Steamboat tax included.....	409
1841—Amount received from pay patients in Lunatic Asylum....	2,749
1860—U. S. Government for sustaining prisoners in counties.....	1,378
1862—Amount of State interest on \$350,000 deposited in U. S. depository at Cincinnati.....	2,263
1865—Sale coupons \$48,500 of 7.3% U. S. bonds.....	1,770
1865—U. S. reimbursement on account of military expenses.....	799,350
1866—Premium on gold coin.....	21,315
Interest on treasury notes.....	23,090
U. S. reimbursement.....	57,369
1867—Interest saved on transfer to Sinking Fund.....	3,402
1867—Interest on U. S. notes premium in coin.....	34,028
1867—U. S. refunded on account, war claims.....	346,238
1868—Interest and premium on treasury notes.....	26,829
1868—War claims against U. S.....	120,330
1870—Show licenses have also been included in this list up to 1870.	
1872—Received on account Coschocton County robbery.....	3,793
1881—Received on account of salary Clerk of Supreme Court...	3,275
1882—Payment on tobacco Work House.....	3,006
1882—War claims from U. S. Government.....	67,675
1883—War claims.....	70,944
1884—War claims .....	90,247
1886—Fees Secretary of State's office.....	16,655
1886—War claims.....	12,590
1887—Fees Secretary of State's office.....	32,764
1889—Tax on fishnets.....	6,466
1891—Refund direct tax from U. S.....	332,026
1891—War claims from U. S.....	7,556
1893—T. & O. C. Ry. right of way.....	780
1893—Gov. from McDonald investigation.....	4,661
1894—Hocking Valley & Athens Ry. and Walhonding Valley & Ohio Ry.....	55,000
1896—Ohio Chickamaugua Com.....	3,543
1898—War with Spain.....	68,843
1898—Repayment of money advanced to Ohio Volunteers.....	21,458
1899—War with Spain.....	165,286
1900—War with Spain.....	109,539
1900—War with Spain.....	45,048
1901—U. S. Gov. Q. M. Stores.....	23,277
1902—Ohio war claims.....	458,559
1902—Bureau Accounting.....	7,250
1902—Unexpended balance W. R. C. Home.....	1,523
1903—Ohio war claims.....	115
1903—Bureau Public Accounting.....	14,500

1903—From U. S. Fidelity on bond A. M. Collier.....	2,715
1903—Received from cities, villages, counties, etc., account of Public Audit Expense.....	30,909
1904—Received from cities, villages, counties, etc., account of Public Audit Expense.....	38,257
1904—Bureau Public Accounting.....	14,500
1905—Bureau Public Accounting.....	14,500
1905—War claims.....	1,100
1905—Cities, villages, and counties, account Public Audit.....	45,918
1905—Treasurer State interest on State deposits.....	32,669
1906, Includes dairy and food commissioner, \$4371; state oil inspector, \$4351; interest on state deposits, \$53,568; fire marshall, \$67,518; bureau of inspection and supervision of public offices, \$47,670; taxes from county treasurers for bureau of public accounting, \$14,500. 1907, Includes dairy and food commissioner, \$5102; state oil inspector, \$13,143; interest on state deposits, \$86,240; fire marshall, \$57,085; bureau of inspection and supervision of public offices, \$62,291; taxes from county treasurers for bureau of public accounting, \$14,500.	
1908, Includes dairy and food commissioner, \$2,566; state oil inspector, \$31,776; interest on state deposits, \$163,345; state fire marshall, \$66,284; bureau of inspection and super- vision of public officers, \$82,151; taxes from county treasurers for bureau of public accounting, \$14,416.	
1909, Includes dairy and food commissioner, \$9,195; state oil inspector, \$48,981; interest on state deposits, \$155,384; fire marshall, \$78,996; bureau of inspection and supervision of public offices, \$109,336; state board of agriculture, \$92,- 335; highway department, \$74,078.	



TABLE III. EXPENDITURES

Year	I	1a	2	2a	3	3a	4	5	5a	6	7
	Administrative Salaries	Administrative offices Salaries	Genl. assembly Pay and mileage	Genl. assembly Expenses other than salaries	Judiciary Salaries	Judiciary Expenses, etc.	Education Libraries, books	Charitable correctable, penal institutions	Construction and repair of buildings	Printing, binding, publishing and distributing laws and journals	Public Works Salt works, canals, etc.
1822....	\$ 18,336	2,317	\$ 19,931	\$ 3,766	.....	.....	.....	\$ 10,384	.....	\$ 2,361	\$ 1,930
1823....	17,953	3,599	14,013	793	.....	.....	.....	9,680	.....	2,491	8,271
1824....	18,014	3,082	30,592	5,029	.....	.....	.....	7,795	.....	6,063	6,843
1825....	18,000	3,007	24,503	2,451	300	.....	600	9,733	.....	4,421	46,300
1826....	18,000	4,529	25,016	1,546	300	.....	900	8,192	.....	4,107	30,040
1827....	18,014	1,724	22,149	2,070	310	.....	600	10,070	.....	3,722	26,636
1828....	18,015	2,700	26,907	2,105	300	.....	550	10,021	.....	4,234	80,730
1829....	17,686	4,961	27,666	1,316	300	.....	635	9,893	.....	4,186	55,428
1830....	17,624	3,223	29,086	3,112	300	.....	733	15,427	.....	5,030	150
1831....	17,597	4,650	35,050	6,419	300	\$ 171	850	14,086	.....	10,885	.....
1832....	18,000	4,708	33,249	2,664	300	.....	763	20,030	3,200	8,170	.....
1833....	18,008	5,248	31,102	1,841	425	.....	912	17,760	24,823	6,100	127
1834....	19,989	7,259	34,403	2,137	340	.....	1,009	31,540	19,500	8,750	15,338
1835....	20,828	7,483	44,005	5,617	300	.....	.....	56,233	.....	14,258	5,044
1836....	21,008	8,120	39,099	5,423	.....	.....	824	16,367	.....	12,672	1,618
1837....	23,071	9,095	49,989	10,688	.....	.....	1,418	30,302	33,866	18,500	9,397
1838....	25,400	5,710	44,546	9,769	.....	.....	2,666	57,772	12,538	18,884	16,010
1839....	27,572	12,603	44,679	20,977	.....	.....	.....	49,661	16,187	21,057	9,844
1840....	6,071	11,863	48,839	8,761	24,202	3,641	625	49,241	.....	34,008	.....
1841....	6,100	15,486	47,008	3,694	25,489	0	342	37,201	.....	32,500	4,767
1842....	7,204	10,225	46,565	12,836	25,438	621	451	45,609	.....	24,135	12,132
1843....	8,827	11,061	40,215	8,005	26,341	268	646	40,545	10,500	10,112	37,230
1844....	6,783	11,106	37,922	9,814	24,251	866	481	40,483	13,000	17,301	34,760
1845....	7,071	9,544	27,553	10,731	23,587	1,230	929	70,023	.....	10,883	5,263
1846....	8,277	11,667	25,496	6,687	24,435	18	790	70,680	.....	12,758	3,890
1847....	18,757	7,441	26,633	12,710	24,693	639	407	66,320	.....	12,778	1,741

TABLE III. EXPENDITURES

Year	7a	8	8a	9	12	16	17	18	19	20	21	22
	Public Lands	Buildings Maintenance	Buildings and Construction repairs	Militia and military affairs	Agriculture [Wolf scalps 1822-1848]	Industrial supervision and statistics	Records and Publication of	Elections	Paid to Counties	Refund taxes improperly paid	Miscellaneous	Total
1822..	\$ 112	..	..	\$ 3,345	\$ 445	..	..	..	\$ 10,682	\$ 2,228	\$ 1,645	\$ 77,470
1823..	240	..	..	1,032	2,938	..	..	..	4,488	1,377	2,412	69,889
1824..	448	..	..	1,419	3,349	..	..	..	5,874	2,004	4,909	95,621
1825..	375	..	..	1,443	4,012	..	310	..	3,736	2,496	2,277	126,340
1826..	287	..	..	1,948	2,835	..	216	..	6,091	3,110	2,639	169,757
1827..	9	..	..	2,067	2,581	..	384	..	1,999	1,320	4,239	98,197
1828..	7	..	..	2,522	2,237	..	296	\$ 1,593	6,971	1,365	2,004	163,777
1829..	135	..	\$ 1,020	2,421	2,401	..	300	48	8,169	1,876	1,827	139,879
1830..	1,411	..	246	3,702	2,929	..	247	8,943	10,346	1,496	2,160	92,486
1831..	1,616	..	290	2,742	3,544	..	300	..	8,943	1,908	1,917	111,125
1832..	1,210	..	..	3,539	4,133	..	292	1,643	11,083	2,102	2,136	117,300
1833..	3,395	\$ 109	316	3,996	3,354	..	443	601	9,185	1,868	1,395	130,888
1834..	3,404	..	39	2,956	3,166	..	2,049	39	8,830	..	3,496	164,038
1835..	1,121	..	37	5,310	2,824	..	300	18	8,638	..	11,729	185,853
1836..	..	8	..	3,250	2,653	..	..	1,817	11,245	1,490	6,872	168,009
1837..	723	..	..	2,699	1,988	..	..	789	9,772	..	3,918	190,937
1838..	..	..	10,000	2,545	2,104	..	..	..	11,915	..	11,693	230,202
1839..	..	..	25,000	4,908	1,986	\$ 800	..	..	10,577	..	17,328	266,331
1840..	6,150	288	6,385	3,147	1,179	2,535	..	..	6,748	..	7,585	223,155
1841..	..	493	436	3,651	1,103	1,120	352	3,769	1,946	..	1,745	191,320
1842..	..	329	4	5,223	1,189	2,338	..	186	3,282	..	4,824	202,677
1843..	..	178	..	4,602	602	2978	..	..	..	..	..	205,141
1844..	..	318	1,004	5,906	1,497	1,433	..	2,340	13,053	..	2,652	225,036
1845..	..	947	..	3,248	933	741	..	1,013	13,103	..	7,704	201,471
1846..	..	383	..	3,195	703	..	..	..	14,091	2,068	8,187	193,324
1847..	..	580	..	2,402	512	8,324	..	24	18,363	2,550	5,341	210,250

## EXPENDITURES

Year	I	1a	2	2a	3	3a	4	5	5a	6	7
	Administrative Offices Salaries	Administrative Offices than salaries	Gen'l Assembly Pay and mileage	Gen'l. Assembly Exp. other than salaries	Judiciary Salaries	Judiciary Expenses, etc.	Education Libraries, books	Charitable, correc- tional, penal Institutions	Construction and repair of buildings	Printing, binding, publishing and distributing laws and journals	Public Works, canals, etc.
1841....	\$ 10,410	\$ 6,077	\$ 33,795	\$ 15,698	\$ 20,652	\$ 1,816	\$ 470	\$ 62,004	.....	\$ 16,491	.....
1849....	18,910	8,172	53,100	14,270	27,350	430	480	65,161	.....	19,511	.....
1850....	22,015	6,834	51,878	25,050	26,833	33	625	73,091	.....	27,052	.....
1851....	22,771	9,155	55,373	36,313	28,148	701	1,154	62,505	.....	39,070	.....
1852....	26,837	10,486	90,748	23,374	51,440	1,030	992	132,055	26,838	28,120	.....
1853....	23,035	6,304	79,508	22,661	51,592	2,931	1,155	118,067	26,917	28,275	.....
1854....	26,699	10,292	78,132	262	54,106	757	661	135,892	149,732	67,172	.....
1855....	21,901	11,804	105	75	59,945	481	3,305	108,514	34,095	16,800	.....
1856....	22,932	7,361	70,118	3,775	56,790	338	2,534	335,427	8,577	40,800	.....
1857....	21,822	6,467	74,626	3,527	59,917	368	2,554	284,803	23,630	51,197	.....
1858....	23,311	10,384	75,618	1,470	55,586	1,348	3,060	287,638	8,888	62,142	.....
1859....	28,973	9,390	72,392	2,424	72,334	4,737	4,777	274,957	30,200	70,978	.....
1860....	38,046	9,178	61,066	32,540	70,020	.....	.....	290,005	49,287	61,371	.....
1861....	33,313	12,441	91,562	.....	95,475	6,129	.....	372,629	.....	62,010	\$ 25,000
1862....	28,839	8,478	79,220	.....	79,845	.....	.....	325,150	.....	30,071	.....
1863....	31,264	6,698	66,968	.....	86,728	.....	604	312,183	.....	51,080	.....
1864....	34,862	8,474	45,841	.....	60,936	.....	1,400	375,780	38,123	66,202	.....
1865....	49,200	90,849	52,873	.....	80,481	.....	.....	435,314	.....	175,408	.....
1866....	49,200	22,398	57,245	.....	76,974	1,610	4,173	780,743	.....	171,810	.....
1867....	127,699	15,621	62,410	.....	90,656	1,362	11,580	935,573	.....	133,040	.....
1868....	71,343	13,094	126,150	.....	100,222	.....	8,934	1,020,280	.....	83,143	7,500
1869....	79,836	11,738	125,602	.....	110,715	1,180	2,493	1,038,688	.....	110,273	.....
1870....	74,943	13,958	100,120	.....	128,531	.....	3,308	997,552	.....	91,017	20,415

Year	EXPENDITURES										20	21	22
	Buildings	Maintenance	Buildings and repair	Militia and military affairs	Agriculture [wolf scalps] 1848-1870	Soldiers and Sailors' Home and relief	Industrial and Supervision and statistics	Records, publication and purchase of	Elections	Paid to Counties	Refund taxes improperly paid	Miscellaneous	Total
1872	547		20,000	5,389	115	.....	2,142	.....	1,619	20,471	2,075	5,584	240,209
1873	641		65,000	4,035	1,755	.....	3,713	.....	1,352	21,473	3,004	2,451	307,170
1874	1,078		70,000	2,072	2,038	.....	.....	.....	32	28,406	3,073	5,204	302,075
1875	860		85,015	2,163	2,386	.....	4,313	.....	172	45,405	4,175	67,454	457,006
1876	611		105,437	1,673	3,873	.....	3,773	.....	.....	30,000	2,475	5,581	546,252
1877	1,452		120,160	2,809	2,740	.....	2,836	.....	.....	25,265	3,568	6,505	529,024
1878	1,474		104,115	1,555	3,601	.....	6,225	.....	15	.....	4,283	6,139	671,281
1879	500		111,634	1,704	3,181	.....	4,568	.....	4	.....	3,084	2,510	441,077
1880	4,118		20,5140	1,714	3,240	.....	1,313	.....	2,501	.....	63,153	7,440	955,476
1881	16,621		158,740	1,533	4,026	.....	2,302	.....	1,803	.....	10,799	8,042	726,202
1882	12,042		126,336	2,817	4,141	.....	4,580	.....	9	.....	7,804	7,804	608,839
1883	47,328		28,475	3,180	3,533	.....	1,667	.....	.....	.....	13,221	42,270	717,321
1884	6,382		26,440	6,656	2,100	.....	.....	.....	2,611	.....	3,151	3,569	604,480
1885	18,532		1,860	.....	1,667	.....	.....	.....	1,622	.....	.....	29,533	754,652
1886	6,765		.....	4,239	.....	.....	.....	.....	.....	.....	.....	404,822	976,809
1887	10,279		.....	104,829	5,495	.....	.....	.....	.....	.....	.....	11,028	586,610
1888	14,114		.....	296,584	.....	.....	.....	.....	9,282	.....	.....	56,447	830,850
1889	19,656		.....	138,939	3,642	.....	3,401	.....	.....	.....	.....	855,088	2,266,387
1890	20,829		4,202	1,35,973	3,580	.....	4,031	.....	.....	.....	.....	5,620	1,345,478
1891	16,507		3,181	1,38,973	3,975	.....	.....	.....	.....	.....	.....	100,100	1,050,850
1892	18,149		2,264	71,121	3,975	.....	.....	.....	2,101	.....	.....	3,000	1,547,032
1893	26,081		2,163	50,721	4,028	.....	.....	.....	.....	.....	180	3,944	1,585,580
1894	42,866		.....	65,684	2,025	27,450	.....	10,816	.....	.....	.....	4,707	1,598,499



## EXPENDITURES

Year	1	1a	2	2a	3	3a	4	5	6	7	8	9	
	Administrative Offices	Administrative Offices	Genl. Assembly Pay and mileage	Genl. Assembly Exp. other than salaries	Judiciary Salaries	Judiciary Expenses, etc.	Education Libraries, books, etc.	Charitable, Correctional, Penal Institutions	Printing, binding, publishing and distributing laws and journals	Public Works, canals, etc.	Buildings Maintenance	Buildings (construction and repair)	Military and naval affairs
1871..	\$ 87,608	\$ 12,368	\$ 123,365	.....	\$ 43,746	.....	4,507	\$ 1,288,603	110,610	7,717	17,151	21,470	43,454
1872..	80,555	14,074	117,052	.....	152,402	.....	3,388	1,336,895	110,610	49,862	20,014	21,470	37,103
1873..	81,110	11,319	177,923	322	143,130	.....	11,875	1,587,103	186,000	30,877	20,014	21,470	37,103
1874..	79,104	10,595	228,703	.....	151,275	.....	3,378	1,604,676	140,358	49,923	18,670	6,074	30,470
1875..	80,647	9,901	132,862	.....	172,864	.....	6,917	1,604,138	114,128	16,792	21,470	6,074	30,470
1876..	116,114	.....	122,912	.....	182,691	.....	17,412	1,306,751	72,105	35,000	28,183	.....	37,311
1877..	104,835	.....	131,345	.....	190,428	.....	17,606	1,749,168	73,106	30,600	28,183	.....	37,311
1878..	41,375	21,284	122,201	63,261	181,763	8,532	11,450	1,530,404	131,166	151,312	18,670	17,151	18,670
1879..	113,663	.....	116,838	.....	183,358	8,257	20,777	1,304,883	115,492	106,537	18,670	17,151	18,670
1880..	107,460	.....	192,192	.....	192,192	.....	10,650	1,407,580	101,528	228,092	.....	17,151	18,670
1881..	176,281	.....	123,547	.....	199,070	4,030	35,061	1,350,506	59,358	226,020	.....	17,151	18,670
1882..	139,194	.....	110,477	.....	206,885	.....	2,697	1,485,000	55,253	225,081	.....	17,151	18,670
1883..	103,159	.....	112,748	.....	203,597	15,050	43,508	1,598,733	50,840	27,151	.....	17,151	18,670
1884..	110,572	.....	113,402	.....	212,490	24,063	33,633	1,599,615	102,578	208,250	.....	17,151	18,670
1885..	66,511	.....	117,424	.....	272,752	11,174	37,430	1,820,379	57,793	200,218	.....	17,151	18,670
1886..	94,546	533	145,534	.....	292,166	6,475	65,143	1,620,095	101,138	210,130	.....	17,151	18,670
1887..	92,087	10,900	120,101	.....	268,702	6,475	50,000	1,670,685	94,348	210,130	.....	17,151	18,670
1888..	60,341	417	124,424	.....	268,958	2,357	53,171	1,750,732	73,798	210,130	.....	17,151	18,670
1889..	93,978	.....	147,103	.....	315,721	126	74,747	1,730,644	73,798	210,130	.....	17,151	18,670
1890..	100,710	252	138,705	.....	323,396	.....	75,018	1,785,497	101,945	210,130	.....	17,151	18,670
1891..	99,367	.....	146,634	.....	320,718	.....	69,687	1,857,090	78,299	210,130	.....	17,151	18,670
1892..	79,492	.....	132,595	.....	313,828	.....	70,137	2,030,193	139,740	235,581	.....	17,151	18,670
1893..	78,528	.....	137,518	.....	326,067	.....	60,713	2,014,845	125,800	175,170	.....	17,151	18,670
1894..	78,080	.....	150,213	.....	346,107	2,088	55,137	2,102,631	105,680	282,495	.....	17,151	18,670
1895..	77,580	.....	87,203	.....	335,615	2,063	70,511	2,112,520	73,073	188,431	.....	17,151	18,670

## EXPENDITURES

Year	10	11	12	14	15	16	17	18	20	23	24	21	22
	Grants to Societies	Public Health	Agriculture and Horticulture [wolf scalps] 1871-73	Soldiers and Sailors' Home and Relief	Celebrations and Exhibits	Industrial supervision and statistics	Records and Publication of	Elections	Refund Taxes Improperly paid	Commissions Dairy and Food Live stock, Fish and Game	Board of Arbitration, Assessors	Miscellaneous	Total
1871..	.....	.....	\$ 6697	\$ 7781	.....	\$ 22,012	.....	.....	.....	.....	.....	4,344	\$ 1,956,818
1872..	.....	.....	5,040	177,810	.....	27,403	.....	\$ 2,620	55	.....	.....	4,352	2,144,502
1873..	.....	.....	1,227	46,284	.....	46,284	.....	1,586	.....	.....	.....	4,500	815,994
1874..	.....	.....	3,500	.....	.....	24,506	.....	.....	.....	.....	.....	4,078	725,310
1875..	.....	.....	3,997	.....	.....	47,095	.....	.....	3,600	.....	.....	3,563	633,585
1876..	.....	.....	4,232	.....	.....	54,302	.....	.....	.....	.....	.....	3,518	674,066
1877..	.....	.....	14,400	.....	.....	33,716	.....	.....	.....	.....	.....	6,541	662,000
1878..	.....	.....	1,000	.....	.....	27,681	\$ 4,822	.....	100	.....	.....	3,008	988,218
1879..	.....	.....	3,970	126,803	.....	30,368	.....	.....	.....	.....	.....	6,089	2,502,957
1880..	.....	.....	4,213	102,644	.....	25,790	.....	.....	.....	.....	.....	3,709	2,495,959
1881..	.....	.....	4,888	102,789	.....	17,057	.....	572	.....	.....	.....	2,595	2,432,300
1882..	.....	.....	7,516	121,804	.....	20,098	.....	.....	.....	.....	.....	42,600	2,507,881
1883..	.....	.....	12,000	126,025	.....	41,416	.....	.....	.....	.....	.....	11,794	2,584,039
1884..	.....	.....	12,726	131,606	.....	44,044	.....	.....	.....	.....	.....	10,295	2,696,971
1885..	.....	.....	24,952	138,165	.....	26,780	.....	.....	.....	.....	.....	2,683	3,002,610
1886..	.....	.....	43,454	125,090	2,595	45,389	.....	13	.....	.....	.....	2,876	3,143,004
1887..	.....	.....	37,581	177,333	.....	56,320	.....	.....	.....	.....	.....	10,000	3,044,750
1888..	.....	.....	24,088	332,139	47,370	54,134	.....	635	.....	.....	.....	4,095	3,395,381
1889..	.....	.....	22,623	397,074	.....	48,859	.....	.....	.....	.....	.....	2,941	3,375,065
1890..	.....	.....	22,623	397,074	.....	45,432	6,000	.....	6,336	\$ 10,115	.....	3,100	3,513,531
1891..	.....	.....	22,623	386,493	10,000	48,071	8,043	.....	.....	23,137	.....	30,367	3,536,673
1892..	.....	.....	22,623	386,493	10,000	48,071	8,043	.....	.....	25,030	.....	30,367	3,702,535
1893..	.....	.....	22,623	386,493	10,000	48,071	8,043	.....	.....	35,617	.....	155,257	3,775,182
1894..	.....	.....	22,623	386,493	10,000	48,071	8,043	.....	.....	12,147	.....	74,812	3,900,861
1895..	.....	.....	22,623	386,493	10,000	48,071	8,043	.....	.....	62,113	\$ 7,108	91,151	3,779,895

## EXPENDITURES

Year	1	2	3	3a	4	5	6	7	8	9	10
	Administrative Offices	Genl. Assembly	Judiciary Salaries	Judiciary Expenses, etc.	Education Libraries, Books, Etc.	Charitable, cor- rectional, penal Institutions	Printing, binding, publishing, distrib- uting laws and journals	Public Works	Buildings Maintenance	Militia and military affairs	(Grants to Societies
1866..	\$8,770	\$150,790	\$334,340	\$ 2,250	\$ 73,423	\$ 2,223,515	\$ 33,930	\$ 88,815	\$ 33,205	\$ 105,302	\$ 4,442
1867..	87,787	166,923	335,457	2,100	29,308	2,751,259	26,693	187,217	17,411	160,046	10,039
1868..	98,385	164,742	351,571	2,150	26,843	2,733,140	141,523	200,495	35,436	510,838	5,803
1869..	99,873	94,026	364,838	1,675	17,857	2,793,678	103,854	188,126	24,287	144,616	4,794
1890..	103,152	157,027	363,653	10,900	29,363	2,810,131	133,600	193,359	25,300	274,821	6,077
1901..	98,424	95,968	368,397	3,399	32,037	2,693,210	117,593	236,524	31,282	128,305	11,573
1902..	108,143	299,129	382,896	32,067	30,593	2,868,224	115,504	330,532	57,692	281,883	11,057
1903..	107,561	22,410	403,156	2,013	39,113	3,241,360	115,610	247,431	38,915	178,200	17,347
1904..	120,233	282,160	417,624	2,375	39,094	3,013,476	207,433	192,770	52,437	285,671	12,204
1905..	112,560	23,153	460,481	550	47,843	3,261,576	131,127	270,408	51,630	290,671	15,300
1906..	162,159	280,090	441,619	.....	41,694	3,010,873	145,001	407,038	48,015	368,577	13,267
1907..	159,625	22,282	476,411	.....	53,529	2,992,557	100,872	603,805	38,312	345,240	25,200
1908..	107,101	306,014	484,650	.....	49,647	3,244,615	156,950	610,536	53,885	307,095	25,548
1909..	264,432	234,922	519,999	.....	55,491	3,947,587	214,925	594,800	43,027	461,342	19,103

## EXPENDITURES

Year	11	12	14	16	18	20	23	24	21	22
	Public Health	Agriculture and Horticulture	Soldiers and Sailors' Home	Industrial supervision and statistics	Building and Loan	State Fire Marshal	Commissions, Live Stock, Dairy and Game, Fish and Game,	Board of Arbitration, Appraisers and Assessors	Miscellaneous	Total
1896...	\$ 9,775	\$ 47,767	\$ 364,134	\$ 89,522	.....	.....	\$ 73,414	\$ 10,766	\$ 221,325	\$ 4,106,141
1897...	13,829	44,494	411,333	91,175	.....	.....	50,093	7,577	23,810	4,436,833
1898...	16,113	22,146	401,602	101,366	\$ 7,596	.....	65,853	10,731	127,378	5,029,803
1899...	14,506	28,371	401,893	96,043	7,204	.....	70,751	9,385	184,203	4,604,053
1900...	16,885	33,033	399,442	93,696	8,367	.....	65,050	7,576	179,651	4,000,453
1901...	16,882	43,083	418,240	92,646	8,968	.....	78,143	8,745	405,700	5,183,095
1902...	17,836	61,360	403,794	156,043	15,007	\$ 321,148	89,868	8,502	189,130	5,435,873
1903...	17,065	99,715	438,559	142,415	18,172	41,045	79,518	8,340	338,540	6,054,240
1904...	18,306	101,845	648,862	145,811	20,496	48,521	76,775	11,618	450,944	6,011,076
1905...	20,237	135,633	413,899	149,069	21,965	64,525	77,944	10,547	576,427	6,437,548
1906...	38,643	117,281	405,794	210,781	21,618	53,637	77,010	6,830	544,210	6,553,130
1907...	88,048	163,690	407,616	259,788	21,996	55,792	85,814	7,100	1,382,288	8,178,820
1908...	272,227	125,542	467,943	283,183	25,822	62,068	88,877	2,448	1,057,370	9,125,327
1909...	331,029	237,172	565,246	383,259	29,866	64,061	99,075	1,050		



## TABLE III—FOOTNOTES ON EXPENDITURES—

## Note on 1.

1822-40—Judges of Supreme Court, President of Court of Common Pleas are included in the list of executive officers.

1854—The list of executive officers now includes School Commissioner and State Librarian. Salary of the latter has been for a number of years back \$300 or \$400.

1876—Stationery and documents are included in the Secretary of State's department.

1878—It was necessary to take the fully itemized account for this year as no other was given.

## Note on 1a. Placed the following items in 1a:

1887—Portrait of Garfield, statue of Wm. Allen, portrait of

Foraker .....\$ 10,900

## Note on 2.

1873—Constitutional Convention..... 58,684

1874—Constitutional Convention..... 127,543

## Note on 3a.

1831—Payment of Sheriffs for attending court in bank for sundry years, \$171.

Note on 4.—Under Education is included the purchase of books and libraries.

## Note on 5.

1829—An appropriation first made in this year for education of deaf and dumb.

1835—Lunatic Asylum mentioned in the list for first time.

1837—Appropriation for Blind Asylum first made.

1857—The item "Ohio Reform Farm" first occurs.

1873—The charitable, correctional, penal institutions also Soldiers' and Sailors' Home from now until 1879 appear under the Asylum Fund created at this time.

1879—The above again come under General Revenue.

## Note on 5a.

1832-39—Appropriations towards the erection of a new penitentiary made.

1833—Appropriation for D. & D. buildings.

1843-44—Appropriation for enlargement of Lunatic Asylum.

1852—Appropriation made for several new lunatic asylums [Newburgh, Dayton, etc.]

1854-60—Appropriation made for improvements and new buildings at all institutions during these years.

1905—The number of these institutions increased to 14.

## Note on 6.

1824—Revising the laws is also included.

1867—Exp. of land appraisers, sale of land scrip, travel of school commissioner is included with distributing journals, etc., this year.

- 1869—Exp. of Presidential and special elections included in 6 this year.  
Note on 7.
- 1834—Item "U. S. Road" occurs for first time.  
Note on 7a.
- 1830—Payment of Registers and Receivers of O. lands their percentage  
on amount of money received for sale of lands.  
Note on 8.
- 1884—For a number of years back the item "State House and Grounds"  
has occurred with Adjutant General's department so it was placed  
under 9. It again occurs as a separate item.  
Note on 8a.
- 1838-60—Appropriation made for new State House.  
Note on 9.
- 1861, with the outbreak of the Civil War various special funds  
were created for war expenditures, and these consequently do not  
appear in the expenditures of the general revenue fund.
- 1879-80—Adjutant General's department includes also care of State House  
and grounds.  
Note on 10.
- 1890—Historical and Archaeological Society, \$1000.  
Note on 11.
- 1907, This item shows a great increase, owing to the building and  
maintenance of a state sanitorium.  
Note on 14.
- 1870—Appropriation made for Soldiers' and Sailors' Home.  
Note on 15.
- 1876—Board of Centennial Managers, \$34,350.
- 1884—Ohio exhibit N. O. Exposition.  
Note on 16.
- 1874—Inspector of Work Shops and Factories, Commissioner of Labor  
Statistics, Mine Inspector, Insurance Commissioners, Commissioner  
of Railroads and Telegraph, and 1902 Examiner of Stationary  
Engines.  
Note on 17.
- 1870—Geological Survey, \$19,816.
- 1890—Howes Historical Collections of Ohio, \$6000.  
Note on 21.
- 1822—(a) Mileage for County Collectors in traveling to seat of  
government to make annual returns.....\$ 507
- 1822—Appropriations to sundry persons..... 1,138
- 1823—(a) ..... 470
- 1823—(b) ..... 1,042
- 1824—(c) To Edw. Pritchard's heirs, money deposited for redemp-  
tion of land sold for tax..... 13

1825—(d) To Bank of U. S. for amount judgment against officers of State.....	2,055
1825—(e) Cost of said suits.....	233
1834—(f) Double entries included in list.	
1841—(g) Bounty on silk included in list.	
1843—(h) Claims included in list.	
1850—(i) Expenses of Constitutional Commission.	
1862—(j) U. S. direct tax.....	380,100
1865—U. S. direct tax.....	766,897
1867—U. S. direct tax.....	185,130
1873—Procuring selections of school lands.....	693
1882—Drawn on account President Garfield's obsequies.....	36,894
1884—Relief flood sufferers.....	100,000
1891—War claims vs. General Government.....	28,889
1905—Bureau of Inspection.....	12,544
1905—Public Audit Expense.....	46,356

The "Miscellaneous" column has been large since 1896, but it stands in the Auditor's table simply "Miscellaneous", not itemized at all.

Note on 21.

1906, In addition to the item "Miscellaneous" as given by the auditor, is included \$113,181 for the prosecution and transportation of convicts.

1907, Additional items are \$100,625 for the prosecution and transportation of convicts; \$310,703 for the state university; \$114,874 for the state highway department. 1908, For the items just given the following sums: \$130,880; \$319,439; \$289,881. 1909, For the items given in 1907 the following sums: \$134,235; \$425,066; \$423,948.

Note on 22.

1873-78—Appropriations for charitable, correctional, and penal institutions, and for the Soldiers' and Sailors' Home were included in the Asylum Fund for these years, and were consequently not reported in the state expenditures by the auditor. The former were ascertained and are stated in column 5, but are not included in the totals, which are therefore unduly small for these years.

### CHAPTER III

## FINANCIAL ADMINISTRATION AND BUDGETARY PRACTICE.

#### I. TREASURY ADMINISTRATION AND ACCOUNTABILITY.

The constitution of 1802 placed but slight restrictions upon the financial powers of the legislature. Less than half a dozen provisions controlled their action or gave directions as to their conduct, and most of these had to do with the framing or passage of legislation, including the budget. Three sections only concerned the treasury department: one provided that no money should be drawn from the treasury, but in consequence of appropriation made by law;<sup>1</sup> the second directed that an accurate statement of the receipts and expenditures of the public money should be attached to, and published with the laws annually.<sup>2</sup> The third directed that the state treasurer and auditor should be triennially appointed by a joint ballot of both houses of the legislature.<sup>3</sup> Appropriate legislation to enforce the former requirement does not seem to have been passed immediately, for two years later a joint committee to examine the books and accounts of the auditor and treasurer reported that the auditor was still exercising the power, granted originally by the territorial government, of issuing warrants on the treasury to an unlimited amount.<sup>4</sup> The mutual checks between the treasurer's and auditor's offices were also found to be inadequate to secure accountability. The committee recommended checks on the issue of warrants, the auditing of accounts, and a detailed statement of taxes, disbursements, etc.<sup>5</sup>

The first appropriation bill which was passed after Ohio became a state defined the duty of the state auditor: he was to issue warrants on the treasurer, and to lay his

<sup>1</sup>Art. I, sec. 21.

<sup>2</sup>Art. I, sec. 22.

<sup>3</sup>Art. VI, sec. 2.

<sup>4</sup>*Ho. J.*, 1803-4, p. 199.

<sup>5</sup>*Ibid.*, p. 202.

accounts and vouchers before the legislature annually. The examination of these must have been made by the legislature as a whole, for, in spite of the constitutional provision therefor, no report of the auditor or of an auditing committee was printed in the early documents until 1814, when for the first time detailed statements of the revenues were published. Except for the years 1803 and 1813, no detailed statements of expenditures were made until 1822.<sup>6</sup> In these early days the legislature was small, the financial operations of the state very limited, and considerable discretion was left to administrative officers. In fact little control was exercised over their actions. Complaints were made in subsequent years that no check existed against the agent of the Scioto salt works in accounting for money received by him;<sup>7</sup> and that no check existed upon the treasury department with respect to the three per cent. fund.<sup>8</sup>

Gradually legislation was passed which corrected these early evils and secured better accountability on the part of administrative officers. The act of February 18, 1809, carefully defined the duties of the auditor and treasurer of state;<sup>9</sup> the salary of the former was fixed at \$1200 and of the latter at \$500.<sup>10</sup> The second section of the act illustrates interestingly the scarcity of money that existed in a frontier community, such as Ohio was at this time, and the means taken to supply the need. It required the auditor, in payment of obligations owing by the state, to issue bills of small specific amounts, payable at the treasury, with interest. They provided a convenient circulating medium, and also tided the treasury over several embarrassing periods, when the outstanding warrants exceeded the available funds in the treasury.<sup>11</sup> By 1813 the

<sup>6</sup>See chapter II, Receipts and Expenditures, p. 68.

<sup>7</sup>Gov. Mess., *Ho. J.*, 1810, p. 27.

<sup>8</sup>Gov. Mess. *Ho. J.*, 1812, p. 12.

<sup>9</sup>Revised by act of Jan. 13, 1816.

<sup>10</sup>Raised to \$600 by act of Feb. 10, 1814.

<sup>11</sup>Aud. rep. *Ho. J.*, 1813, p. 24.



financial embarrassment had passed and the auditor was instructed to draw a single warrant for the whole amount of a bill with the consent of the person to whom it was due.<sup>12</sup> In the following year the auditor's certificates ceased to draw interest; it was also provided that no money should be paid out by the treasurer except on the warrant of the auditor.<sup>13</sup> After the financial stringency of 1819-20 the need of an accredited circulating medium was apparently again felt, for small warrants of \$10, \$20, or any fraction between them, or for the whole amount of a bill, were authorized.<sup>14</sup> This was practically repeated two years later, and the faith of the state was pledged for the redemption of these bills.<sup>15</sup> In 1831 this whole mass of legislation was repealed.<sup>16</sup>

Further light is thrown upon the condition of the currency by the state of the funds in the possession of the state treasury at different periods. Committees appointed in 1820 and 1829 to enquire into the state of the funds in the treasury reported as follows:<sup>17</sup>

	1820.	1829.
Amount of gold coin.....	\$ 3,931	\$ ...
Amount of silver coin.....	17,279	237
Amount of bank paper.....	141,336	48,000
Credits in banks, paper representing loans, and redeemed auditor's bills.....	51,850	12,196
	<hr/> \$214,396	<hr/> \$60,433

A deficit of \$11,432 in the funds of the treasurer was reported at the same time by the committee of 1820.<sup>18</sup>

<sup>12</sup>Act of Feb. 9, 1813.

<sup>13</sup>Act of Feb. 11, 1814.

<sup>14</sup>Act of Feb. 2, 1822.

<sup>15</sup>Act of Feb. 24, 1824. The auditor was authorized to issue, when requested, bills for \$10 and \$20; but for the whole amount, if it were under \$10.

<sup>16</sup>Act of Jan. 31, 1831.

<sup>17</sup>*Ho. J.*, 1820, p. 307. *Ho. J.*, 1829, p. 115. In 1825 funds consisting of depreciated bank notes and claims against banks, amounting to \$11,511, were sold for \$4,345 in cash. "Auditors' bills" are treasury warrants.

<sup>18</sup>*Ho. J.*, 1820, p. 373-5.

## THE CANAL ACCOUNTS.

When the state entered upon the work of internal improvements it adopted a plan of raising and disbursing the moneys needed for this purpose, which introduced confusion into all the financial operations of the state.<sup>19</sup> Instead of making use of the existing financial officers and machinery of the treasury department it created a new and independent financial agency, the Board of Canal Fund Commissioners, whose duty it was to raise and control the disbursement of the funds needed for the construction of the canals. Another board, of Canal Commissioners, was created, which had in charge the work of actual construction. Practically all of the money used for building the canals was raised by the sale of bonds in New York or Europe. The moneys so obtained were paid in to the Manhattan Bank of New York City, which acted as agent of the state, and were there subject to the order only of the board of canal fund commissioners. These funds were drawn upon as the need arose and remitted to various Ohio banks which acted as local agents in the payment of bills rendered. Other funds, such as receipts from taxes, sales of land, etc., were deposited in the state treasury, where they were under the disposal of the treasurer.

The canal commissioners drew upon these local funds to meet the expenditures on the canals. There were four branches of expenditure, each of which called for somewhat different treatment. The most important was of course the payments to contractors for the work of construction. Upon receipt of a certificate from the engineer superintending the work, the acting canal commissioner would draw his check for the amount of work actually done. Duplicate accounts were kept by the engineers and the commissioners, so that errors could be promptly detected; and the commissioner was forbidden to draw any of this money in his

<sup>19</sup>See Rep. of Finance Com. of Ho. of Rep., 1827, in *Ohio Canal Doc.*, p. 310, ff.; Rep. of Com. to examine books, etc., in *Exec. Doc.*, 1845, II, 5-12; 578-586.

own name. The same procedure was followed with respect to expenditures for lands purchased for the use of the canals, and for damages assessed in favor of any individual; requisitions were made by the acting canal commissioners upon the fund commissioners in favor of persons entitled to specific sums. Only in the case of incidental expenses, for the payment of wages, salaries, etc., was the money deposited subject to the unrestricted check of the acting commissioner. But duplicate receipts were taken for all such payments and these were filed with the accounts of the commissioners. These guards and restrictions met with the general approval of various committees of the general assembly, appointed to examine and audit the accounts of the canal fund. Down to 1833 certainly there is no evidence to be found of any dishonesty or misuse of canal funds by either of the boards entrusted with their control.<sup>20</sup>

The system of accounts was devised for the purpose of checking the various officers who handled the canal funds and of preventing any misappropriation. As stated above all payments by the acting canal commissioners were made by checks, which were redeemed by the banks and treasurer, and returned by them to the fund commissioners. No money could be drawn except by check, and these served as vouchers for all payments made. At the end of each quarter the accounts of each acting commissioner were examined by the canal board, and, if correct, were recorded in the office of this board (later the board of public works). In 1840 each acting commissioner was required to file his

<sup>20</sup>In 1830 depositions were made before a select committee of the House of Representatives stating that the auditor, Ralph Osborn, had been "connected for many years with a large mercantile establishment", and was then also "extensively engaged in a canal contract, on the Deep Cut"; and that he had given only a small part of his time to the duties of his office. *Ho. J.*, 1830, pp. 475, ff. He was a most inefficient auditor, and his reports are among the poorest of this early period. Though he had been auditor since 1816, he was not re-elected after 1833. This is the only evidence I have found, in this period, of official graft.

accounts also with the auditor of state, by whom the original papers and vouchers were kept.<sup>21</sup>

In the system as thus described, there were several weak points. In the first place the whole system of raising and disbursing the canal funds went on outside of the auditor's and treasurer's offices, who were the financial officers of the state. Two entirely independent boards were created which, while they may have acted as checks upon each other, were jointly accountable to no superior authority. As a result of this fact unbounded confusion resulted in the accounts of the state. Taxes levied for the canal fund would be paid by the county treasurer to the fund commissioners and not be credited on the books of the auditor. Money was borrowed by the commissioners, and no record of the bonds issued appeared in the auditor's office. Drafts issued by the auditor on the treasurer were often redeemed by the fund commissioners. It is evident that under such a system of cross purposes, no accurate accounts and strictness of accountability could be maintained.

Another weakness lay in the fact that the accounts of each acting commissioner were examined by the canal board, of whom he was one of the members, and he then became in turn a judge in settling the accounts of his colleagues.<sup>22</sup> Such a reciprocity of accountability seems to have worked little if any injury, as it was in the hands of uniformly honest men; but it certainly opened the door to evil and was incompatible with any system of strict accountability. Further, there did not seem to be any adequate check upon the engineers or superintendents, who certified to the work of contractors and upon whose certification checks were drawn for construction work and later repairs. It is clear that collusion between an engineer

<sup>21</sup>Act of March 23, 1840. The committee appointed to examine the books of the board of public works reported in 1845, that "after some inquiry, we cannot find that the law was ever complied with". *Exec. Doc.*, 1845, II, 12.

<sup>22</sup>Aud. rep. *Exec. Doc.*, 1839, I, 35.



and contractor might, under such a system, result in graft to a considerable amount, unless it were checked by the watchfulness of an alert acting commissioner. The whole matter was summed up as follows by the auditor in 1843:<sup>23</sup> The whole is one vast running account, and presents the singular anomaly of one set of agents to provide means; a second to pay them out, upon absolute checks; and a third to appropriate the division and settle the disbursements.

It must not be supposed that this system passed without criticism from contemporary observers. In 1835 a committee appointed to examine the books of the auditor and treasurer for the last three years and count the money in the treasury, reported as follows,<sup>24</sup> without however, suggesting any remedies for the evils:

The result of their examinations has been a conviction in the minds of the committee that the present organization of our treasury department does not afford the necessary securities—I. For the actual payment into the treasury of moneys accruing from taxes and the various other sources of revenue provided by law. 2. Against the discharge of those indebted to the revenue from their liabilities, in cases when the money due does not actually reach the treasury. 3. Against the payment of demands for which the state is not liable. 4. Against the allowance of unreasonable or improper accounts. 5. Against the payment of demands for which there is no legal appropriation, or an appropriation not sufficient to meet the demands. 6. Against the misapplication of funds set apart for particular purposes. 7. Against the payment a second time of a demand once paid.

A similar indictment was brought the next year by a committee to examine the books and vouchers of the canal commissioners.<sup>25</sup>

Our examinations [they wrote] have been laborious and unsatisfactory in the investigation of every branch of the subject. . . . We have met with obstacles altogether unexpected, in consequence of the manner in which the books and vouchers of the fund commissioners, the canal commissioners, the auditor of state, and the treasurer of state have been classed and kept. . . . In addition to the irregularity and confusion of those accounts, we were met by the Manhattan Company of New York, with a refusal to furnish us with the information indispensably

<sup>23</sup>Aud. rep., Dec. 11, 1843.

<sup>24</sup>*Ho. J.*, 1835, p. 247. The resolution under which it was appointed bore the date of March 3, 1834.

<sup>25</sup>Rep., Dec. 7, 1836. *Exec. Doc.*, 1836, I, 3-4.



necessary, on its part, to a statement of the accounts with that institution.

These criticisms and suggested reforms drew forth from the auditor a violent objection to "undigested plans" that would "revolutionize a system which has grown into established forms and modes, difficult to remodel or change without repealing numerous laws. . . . Many improvements plausible in theory, are difficult in practice".<sup>26</sup> The evils disclosed were, however, too serious to be overlooked or to have their reform blocked by bureaucratic opposition. The subject of reform became a political issue, one party favoring the centralization of powers and functions under the supervision of the auditor, and the other the continuance of the present system. The reformers won the first battle and in 1836 abolished the board of canal commissioners, establishing in their place a board of public works of six members under the direct supervision of the auditor. Two years later, however, the other side were returned to power and they signalized their victory by repealing most of the legislation of the two years' previous. The board of public works was removed and the old board of canal commissioners reinstated.

But the victory was only a short-lived one and the next year, by act of March 5, 1839, the board of public works was put in office again.<sup>27</sup> Another act was soon passed, entitled "an act to regulate the receipt and disbursement of the canal fund", directed against the loose methods which had characterized the old system. The board of public works was established in the auditor's office and under his supervision. All moneys for canals or public improvements were to be paid into the state treasury and kept as a separate fund, to be disbursed by the treasurer of state. The auditor, finally, was required to make a full annual report of receipts and disbursements.

<sup>26</sup>Aud. rep., 1837, p. 18.

<sup>27</sup>The number of members was reduced to five, but they were authorized to appoint four acting commissioners. By the act of March 6, 1845, the membership was reduced to three, a president and two acting commissioners. This act also provided for sharper control and supervision of expenditures.

The control of the canal funds and of the accounts was now concentrated and placed in the hands of the auditor as the responsible state financial officer, thus removing the dispersion of authority and responsibility that existed under the former system.

The unsatisfactory records hitherto kept of the public debt and related matters were aimed at by an earlier act,<sup>28</sup> which ordered the canal fund commissioners to keep a list of the public works with all expenditures thereon, and to report to the auditor all loans and debts contracted; the auditor, on his part, was required to record in a separate book all loans, debt, appropriations, subscriptions to stock, etc. From this time on permanent and presumably accurate records were kept of essential data, that previously were almost unobtainable. In 1844 the mode of settling accounts between the different departments connected with the public works was regulated in considerable detail. The superintendents were to render quarterly statements to and make quarterly settlements with the resident engineers, who were to certify these to the acting commissioners of the board of public works. The latter were to settle on May 15 and November 15 with the acting commissioner of the canal fund. All checks of the acting commissioners were to be paid by the treasurer—not, as formerly, by the canal fund commissioners,—and were to be examined by the auditor. The board of public works was finally required to make out an annual report and to file it with the auditor.<sup>29</sup> Two years later the duties of the board of public works, of the canal fund commissioners, and of the auditor and treasurer of state, in regard to the receipt and disbursement of the canal fund, and the receipt of taxes, were still more carefully defined and regulated. The original system, however, remained in practice until the thorough-going reforms of a decade later.

<sup>28</sup>Act of Feb. 25, 1839.

<sup>29</sup>Act of March 13, 1844. 42 *O. L.* 74.

## THE REFORMS OF 1856 AND 1857.

The loose methods which had so long prevailed and the lack of strict accountability on the part of the various officials at last opened the door to graft and corruption. The high prices and speculation which prevailed between 1833 and 1837 had led to extravagance and worse in the construction of the canals. The necessity of securing private charters for banks and railroads, and the methods incident thereto, had accustomed many persons to regard the state as an instrument for their private gain. And finally the introduction of the spoils system in politics must probably be held in large part responsible for the decay in responsibility and integrity which took place in the character of public men, in Ohio as elsewhere.

It is impossible to say just when lack of responsibility led to misapplication of public funds, or speculation became speculation, but it may certainly be placed as early as 1838. The report of the examining committee in 1845 showed that from about that date down to the time of their report, corruption, fraud, and graft were present on the canals, in the letting of contracts to high bidders, in collusive bids, in contracts by state officials, etc.<sup>30</sup> Debts due the state were uncollected, overpayments were made to favored contractors, the contingent fund at the disposal of the acting canal commissioners was loosely used,<sup>31</sup> and other corrupt practices were introduced. The public funds were deposited in favored banks; originally introduced to

<sup>30</sup>Rep. of Com. to examine books, etc., of B. P. W. *Exec. Doc.*, 1845, II, 1-573.

<sup>31</sup>In 1840 an act forbade any acting member of the board of public works to have in his hands, unaccounted for, more than a certain amount, varying under different amendments, from \$5000 to \$20,000; but by an "outrageous construction" of the law it was held that the commissioners *must* have that amount on hand, which they seem thereafter to have used for their personal advantage. Rep., 1845, p. 10.

facilitate payments at distant points, the system seems to have been abused.<sup>32</sup>

So flagrant indeed had the corruption become by 1845 that an act of that year provided for the appointment of commissioners to investigate the financial administration of the canals. The publication of their report<sup>33</sup> called forth several acts designed to guard more carefully the use and disbursements of the public funds; among them was an act to punish the embezzlement of public moneys, which was defined as using, loaning, or investing such money with a view to personal gain.<sup>34</sup> It was punished very lightly by a fine of from \$50 to \$500, and the loss of office. Contracts for personal advantage were forbidden, but no penalty prescribed for making them. Evidently the lawmakers did not regard these as very heinous offenses.

Another act of the same year, in itself apparently desirable and advantageous, had disastrous consequences when later dishonest officials took advantage of the opportunities it offered to get control of the public funds. This was designed to secure the funds needed by the commissioners of the sinking fund for the payment of the interest on the public debt, which was due on January 1 of each year. As the state levies were not due from the county treasurers until February, it had been necessary either to maintain a reserve from the previous year or to borrow in anticipation of these taxes. Accordingly this act provided "that, for the purpose of aiding in the payment of interest on the state debt, the several county treasurers of this state shall, on or before the 20th December, annually, transmit or pay over to the state treasurer, a sum not exceeding the amount assessed on the duplicate of such county for state purposes". Under this law it was the practice of the state treasurers to send out circulars in

<sup>32</sup>In 1838 the auditor urged placing "the public funds, *the money of the people*, in the *depository* designed for it at the organization of the government, where it may remain protected and secure from the possibility of injury or loss". *Legisl. Doc.*, 1838-9, I, 17.

<sup>33</sup>*Exec. Doc.*, 1845, II, 1-573.

<sup>34</sup>Act of March 2, 1846.



October, urging the payment of these taxes in advance of the time of regular settlement, irrespective of the fact whether the sinking fund needed the money or not. As such payments did not come to the official knowledge of the auditor until the time of regular settlement, the treasurers were thus able to get hold of considerable funds and use them without any official check.<sup>35</sup> For instance, during the months of November and December, 1852, payments of money were made to the state treasurer by the county treasurers for over \$750,000, of which the auditor had no official information until February.<sup>36</sup>

Another evil practice had grown up, and was publicly known to exist, with but little comment, and without condemnation, and without law effectually to prevent it, which had even worse consequences in its train, because it was so far-reaching.<sup>37</sup> The treasurers of state, and also those of cities, counties, and townships, were depositing money in their official keeping with various banks and bankers, upon which they received interest as a perquisite of their offices, and for which of course they never accounted to the state or other authorities. These depositories in the meantime used the funds thus deposited for their own purposes, and stipulated to afford every facility to the treasurers for concealment. Thus Treasurer Joseph Whitehill, who was in office from 1835 to March, 1847, received interest on his deposits. A. A. Bliss was treasurer of state from 1847 to January 12, 1852, and received interest on deposits of state money at the rate of 4 per cent. per annum from various banks, never accounting to the state for any portion of it. His successor, John G. Breslin, held the office from 1852 to January 14, 1856, and used the state funds freely for private speculation during this period. W. H. Gibson, who followed Breslin and remained in office until

<sup>35</sup>Aud. rep. *Exec. Doc.*, 1857, I, 401.

<sup>36</sup>Aud. rep., 1855.

<sup>37</sup>An account of these transactions is given in the Report of the Investigating Committee . . . of the Defalcation, etc. Published as separate volume of *Exec. Doc.*, 1858.



June 13, 1857, followed the same methods, even hypothe-  
cating cancelled domestic state bonds to raise funds.

It is in vain to deny [wrote the investigating committee of 1858<sup>38</sup>] that public opinion had, for years, permitted and sanctioned this use of public funds by state treasurers and other receivers, for their own benefit and advantage. The law<sup>39</sup> which prohibited this perversion of the public money to the personal uses of the treasurer and his favorites, existed only as a dead letter. Public opinion had failed to demand that it be put in operation and hence the courts and officers of the law made no attempt to enforce it.

As an evidence of this attitude the single fact may be cited that the commissioners of the sinking fund, in each of their semi-annual reports from December, 1852, to January, 1856, called attention to the practice of the state treasurer in loaning public money to the banks. But during this very period the canal fund commissioners were making large loans from the sinking fund to railroads and insurance companies.<sup>40</sup>

These evil practices would probably have been brought to light and stopped if a better system of accountability had existed. No provision was made by law for a full and perfect adjustment of all accounts in the treasurer's and auditor's offices. The auditor had no official knowledge of the settlement of one treasurer with another, as the accounts in his office were simply with the "treasurer of state", nor were the accounts of the treasurer's office verified until the close of the fiscal year, November 15.

As a necessary consequence of a system that is so inherently defective [wrote the auditor in 1853<sup>41</sup>] the accounts of the treasurer of state are mainly adjusted by himself alone, and on retiring from office, he settles not with the proper auditing officer, but with his successor.

These abuses were a cause of serious and frequent complaint by the people, and were made political issues in the campaign of November, 1851.<sup>42</sup> In 1852 an effort was made to procure the passage of laws to secure frequent personal inspection of the treasury by proper officers.

<sup>38</sup>Rep., p. 33.

<sup>39</sup>Act of March 2, 1846.

<sup>40</sup>Rep., p. 32.

<sup>41</sup>Aud. rep., Feb. 12, 1853.

<sup>42</sup>Aud. rep., Feb. 12, 1853.

Although the effort was persistent, it failed of success, because it would have been at once a death blow to all further attempts at plunder.<sup>43</sup>

An ineffective act was passed the following year,<sup>44</sup> providing for the publication of an accurate and detailed statement of the receipts and expenditures of the public revenues. Every officer of the state who was charged with the receipt or disbursement of public money, was required to make a detailed report, which the auditor was to classify and arrange under proper heads, "so as to present in detail an accurate account". While it was eminently desirable to have this information collected and presented in easily intelligible form, this act failed—probably by design—to go to the root of the evil. Part of the blame must certainly be placed upon the legislature for the bad state of affairs, for they refused or neglected to apply the proper remedies when their attention was called to the evils, as it was repeatedly by the reports of the auditor and other officials, and of examining committees of the legislature itself.

The constitution of 1851 was somewhat more specific than the former constitution on the subject of the disbursement of the public funds and a proper accounting therefor. Specific appropriations were provided for and administrative discretion in the use of funds thereby diminished:

No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years.<sup>45</sup>

Another section provided that

an accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom, and on what account, shall, from time to time, be published, as prescribed by law.<sup>46</sup>

It also required that the treasurer should be elected for two years, and the auditor for four years.<sup>47</sup>

<sup>43</sup>Rep. of Investigating Com., p. 37.

<sup>44</sup>Act of March 14, 1853.

<sup>45</sup>Art. II, sec. 22.

<sup>46</sup>Art. XIV, sec. 3. The act of March 14, 1853, simply gave legislative sanction to this provision.

<sup>47</sup>Art. III, sec. 2.

The provisions in the constitution afforded no remedy for existing abuses, and these at last became so glaring that the legislature was forced to take action. They were now confined not only to the improper use of state funds, or the receipt of interest from depositories of such moneys; but graft and corruption were alleged in connection with the construction of several new state institutions that were being erected, and whose cost was running far beyond the original estimates. Within a week three acts were passed directed against the various evils described. One provided for the appointment of three investigating committees to investigate (1) the acts of all public agents who have or had custody or disbursement of public moneys; (2) the acts of the board of public works; (3) all the transactions and expenditures about the new state house, the penitentiary, the three lunatic asylums, the blind, and the deaf and dumb asylums.<sup>48</sup> To meet the expenses of these investigations the sum of \$1500 was appropriated. This was designed to get at the facts.

A second act provided for the adequate punishment of wrongdoers,<sup>49</sup> and repealed the ineffective law of March 2, 1846, on this subject. Its announced purpose was to punish the embezzlement and unlawful use of public moneys. Embezzlement was defined as conversion of money to a person's own use or that of a corporation or company in which he was interested, or making way with it, and for this crime the penalty was made the same as for stealing. The loan of public moneys was forbidden, as was also depositing public funds under an agreement to receive interest or bonus; for both of these the penalty was a fine of an equal amount. Still another act prescribed in detail the duties of the auditor and treasurer of state relative to the receipt, safekeeping, and disbursement of public moneys, and accounting therefor.<sup>50</sup> The auditor was made the principal accounting officer of the treasury

<sup>48</sup> Act of April 17, 1856.

<sup>49</sup> Act of April 10, 1856.

<sup>50</sup> Act of April 8, 1856. 53 *O. L.* 222.

department. All payments into the treasury must be upon his certificate, to which must be attached a pertinent description of the liability for which payment was made, given by the person making the payment; and no money was to be paid out of the treasury except upon the auditor's warrant. No money, futhermore, could be paid out of the treasury unless it should have been appropriated by law for that purpose.

The auditor was ordered to examine, between September 1 and November 1 of every year, and at such other times as he should deem necessary, the books, accounts, etc., of the treasurer, and to count the money, and to ascertain the balance deposited elsewhere, and the conditions upon which such deposits were made, and whether any consideration by way of interest or otherwise was received or expected by the treasurer. This section of the act was aimed at the corrupt alliances already described between the treasurer and certain banks. Another section (sec. 12) was designed to protect the state against loss from the deposit of public funds in state banks:

No money belonging or due to the state shall be deposited . . . elsewhere than in the treasury office at Columbus, without taking, in every instance, security therefore, either by the pledge of United States or Ohio state stocks . . . or by the bonds of individual residents of the state of undoubted pecuniary responsibility, all which securities . . . shall be deposited in the office of the auditor . . . as collateral security.

As a result of the reports of various investigating committees another act was passed in the following session providing that the auditor, treasurer, secretary of state, commissioners of the sinking fund, attorney general, state librarian, directors of the Ohio penitentiary, the trustees of benevolent institutions, and board of public works should keep accurate and distinct accounts.<sup>51</sup> And that the treasurer's monthly statement should show the funds in the treasury, the names of depositories of public funds, and the amount in each. The governor was also required once in three months to appoint an examiner of the treasury who should make his examination without previous notice.

<sup>51</sup>Act of April 16, 1857.



These acts and other legislation of the sessions of 1856 and 1857 attempted to erect effectual guards for the security of the treasury. They made the auditor of state the chief accounting officer of the treasury, and required all payments as well as all disbursements to be made upon his warrant; it directed the commissioners of the sinking fund to withdraw from the treasury, from time to time, the moneys belonging to that fund; it provided for the appointment of depositaries subordinate to the treasury, and required of them ample securities for all moneys deposited with them; and introduced other important checks upon the action of the treasurer.<sup>52</sup>

#### THE DEFALCATION OF 1857.

It seemed now as though the door had been effectually closed to further evils, but the harvest from past abuses had not yet been reaped. In June, 1857, when the commissioners of the sinking fund asked for money to remit to New York for the payment of the July interest, the state treasurer, William H. Gibson, admitted the bankruptcy of the treasury. There was only \$170.34 in actual cash at the time,<sup>53</sup> and the treasurer defaulted for \$580,313. Upon investigation it was discovered that the shortage in the treasury had its beginning at least a decade before.<sup>54</sup> Mr. Bliss, the treasurer from 1847 to 1852, owed to the state at the expiration of his term of office \$65,000, in addition to other deficits which were paid up by his sureties.<sup>55</sup> When John G. Breslin became treasurer he took over the office without full official settlement, thus assuming the shortage of his predecessor. During Mr. Breslin's administration the treasury department was run without any system, ac-

<sup>52</sup>Gov. Mess., Jan. 4, 1858. *Exec. Doc.*, 1857, I, 363.

<sup>53</sup>Aud. rep., *Exec. Doc.*, 1857, I, 396.

<sup>54</sup>Report of the Investigating Committee appointed to enquire into the causes of the defalcation in the state treasury and other matters named in the act of the General Assembly of the State of Ohio, passed April 12, 1858. Published as a separate volume with the *Executive Documents* (Columbus, Ohio, 1858).

<sup>55</sup>Rep., p. 13.



counts were balanced only once a year, and various illegal transactions were carried on. On the expiration of his term the books showed a balance due his successor of \$855,853, of which he actually paid over \$353,865, leaving a deficit in the treasury of \$501,988, which his successor should have had but did not. In addition to this defalcation, \$204,687 had been deposited with banks which had failed, and this also was lost.<sup>56</sup> Breslin's successor was Gibson, his own brother-in-law, who was treasurer from 1856 to 1857. When he took over the office, he concealed his predecessor's deficit, and continued the same policy of speculation and deception.<sup>57</sup> He even abstracted large sums in securities held in trust, upon which the state's guarantee for the redemption of considerable bank circulation was based, and used them in private speculation.<sup>58</sup> These transactions were made possible by the secrecy with which all the operations of the treasury department were conducted, and by the fact that the treasurers made settlement with each other and not with the auditor. As stated above, the auditor had access to the books of the treasurer only at the end of each fiscal year, and the way in which he was deceived year after year is well illustrated by the events of November, 1856. When the auditor made his annual examination of the treasurer's office at that time, he found the correct amount of cash balance on hand, which the books showed that the treasurer should have, namely \$350,951 in currency, drafts, etc. But it developed later that the treasurer had received collections from county treasurers for taxes in advance of the regular period of settlement, which were consequently not charged against him on the auditor's books, and that these with

<sup>56</sup>Rep., pp. 29-86.

<sup>57</sup>Rep., pp. 77, 113.

<sup>58</sup>Rep. Comptroller, Nov. 15, 1862. *Exec. Doc.*, 1862, I, 408. Gibson was an easy-going, genial man, who was imposed upon by many with whom he had business dealings. The treasury was undoubtedly bankrupt when he took charge of it, as a result of Breslin's defalcation, but he concealed this fact by false statements and reprehensible contrivances, after he became cognizant of it, and must bear his full share of the blame.

loans from the banks made up the actual deficit which even then amounted to over \$500,000. The auditor later tried to excuse himself for his lack of discernment and to place some of the blame on the legislature, by saying that, since there was a standing Committee of Finance of the general assembly, whose duty it was to audit the books of both treasurer and auditor, his examination was "not as critical and thorough as it would otherwise have been."<sup>59</sup>

It remains to notice the share, important and corrupting, which the banks had in these disgraceful proceedings. The power which the treasurer—not of state only but also of the local units of government—had of depositing the public moneys in banks of his own selection, made him an extremely important factor in financial circles and one whose favor it was worth while to court. The sureties on his bond were bank presidents, who lent their endorsements in order to obtain their share of the public deposits. Political and social influences of a highly interesting character were also brought to bear upon the treasurer to influence his choice of depositaries.<sup>60</sup> Although the banks paid the treasurer personally interest at four per cent. on these deposits, they certainly made as much more for themselves, as the legal rate of interest in Ohio at this time was 10 per cent. But having made a guilty bargain with the treasurers for the use of the public deposits, the banks later became *participes criminis* in conniving with them to conceal their defalcations. In the case both of Breslin and Gibson, that is from 1852 to 1857, they gave them false credits when the auditor and the auditing committee of the legislature made their annual examination of the treasury. The balances thus credited to the treasurer would be counted as cash on hand, when really there was nothing. A careful audit might have revealed this deception earlier, but that was just what was lacking. After the defalcation was discovered a proposition was made to the

<sup>59</sup>Aud. rep. *Exec. Doc.*, 1857, I, 395.

<sup>60</sup>See Rep. of Investigating Com., 1858, p. 37.

general assembly in 1858 by Breslin and Gibson and their sureties, the bank presidents, for a compromise of their respective liabilities to the state. An effort was made to relieve the sureties from civil suit and the principals from criminal prosecution, by an offer to pay the state \$250,000.<sup>61</sup> Needless to say, this astounding offer was not accepted.

The story of the trial and subsequent treatment of these men is interesting as showing how easy it is for offenders against the state to escape punishment.<sup>62</sup> Upon the defalcation of Gibson, Breslin fled to Canada and remained there while the criminal suit against him was pending. This suit was dismissed in 1864, as the legislature, by act of March 21, 1863, repealed the statute under which he was being sued, so that the prosecution became unlawful. Assets in nominal value of \$400,000 were turned over by the treasury commission from Breslin to the attorney general for collection. They represented various wild speculations, largely in real estate, and were scattered through many states; the treasury commission estimated their real value at about \$10,000, but considerably more than that was collected, as the item "assets of John G. Breslin" continued to figure in the receipts of the general revenue fund for some years, in small dribblets of \$2000 to \$5000 a year.

Gibson was tried and convicted in 1857, but the verdict was set aside. The case against him was continued until the November term, 1861, when he organized an Ohio regiment and entered the war with the rank of colonel. During the war he conducted himself with great gallantry, emerging from it with the rank of general; while he was serving in the army recognizance was extended to him and the suits were not pressed. In 1866, as the suit against Breslin had been dismissed, the prosecution against Gibson

<sup>61</sup>Rep., p. 112.

<sup>62</sup>See reports of Attorney General, *Exec. Doc.*, 1862, II, 253; 1863, I, 410; 1864, I, 605; 1865, I, 680; 1866, II, 521.

was also discontinued. Nothing seems to have been secured for the state from the latter.<sup>63</sup>

#### ESTABLISHMENT OF THE INDEPENDENT TREASURY.

As might be expected the chief work of the legislative session of 1858 was the passage of legislation designed to cure the evils brought to light by the defalcation of the state treasurer. Four general acts were passed with this end in view: "an act to provide for the semi-annual collection of taxes"; "an act to provide for the better regulation of the receipt, disbursement, and safe-keeping of the public revenue"; "an act to define the powers and prescribe the duties of the board of commissioners of the sinking fund"; "an act to establish the independent treasury of the State of Ohio". The last three acts were passed on the same day, April 12. Of these the first was designed to prevent the payment of unnecessarily large sums into the state treasury at one time. It provided that taxes might be paid, one-half by December 20 and one-half by June 20; that the county treasurer must settle with the county auditor by February 15 or August 10, and within ten days the county treasurer must settle with the state officer. If money were needed by the sinking fund to meet the semi-annual interest payments on the public debt on January 1 and July 1, then the comptroller could draw on the county treasurers for the amounts needed. The following year this officer anticipated the revenue in this way to the amount of about \$100,000 in December and again in June.<sup>64</sup>

The second of the four acts mentioned provided for a better system of accountability and introduced some new checks and guards. A new officer was created of comptroller of the treasury, who was a sort of third wheel in the system and whose office was finally abolished in 1876,

<sup>63</sup>In September, 1865, G. V. Dorsey, the treasurer, was arrested "for breaches of trust and embezzlement". The indictments against him were quashed by a grand jury in 1866. Rep. Atty. Genl., *Exec. Doc.*, 1866, II, 521; Gov. Mess., *Exec. Doc.*, 1865, I, 2.

<sup>64</sup>First an. rep. of Comptr., Nov. 16, 1859. *Exec. Doc.*, 1859, I, 454.



after it was demonstrated that he was not essential to efficient financial administration.<sup>65</sup> He kept corresponding accounts with those of the auditor and treasurer, and thus acted as a countercheck upon both; he kept a distinct account with each fund; certified into the treasury all revenues; looked after the outstanding claims due the treasury; examined and filed a duplicate of all claims upon which the warrants of the auditor were predicated, and countersigned such warrants; kept an account of the securities deposited by the independent and free banks for the ultimate redemption of their notes, some of which had previously been under the control of the treasurer and others of the auditor, and kept a detailed account of the circulation of each bank.<sup>66</sup>

The auditor was made the chief accounting officer of the treasury department, as he has ever since continued to be. Payments into the treasury were to be accompanied by a description of the liability; the comptroller must give a certificate of payments to the treasurer, and the treasurer must make out a triplicate receipt, two of which went to the comptroller and auditor. Claims for payments out of the treasury were to be examined by the auditor and comptroller, who must be satisfied that such claim was just and legal, and that money had been appropriated for its payment. If these conditions were met then the auditor should issue a warrant on the treasurer for the payment of the claim out of the appropriate fund. The warrant was to be paid by the treasurer, who would take the receipt of the person paid, and cancel the warrant. A semi-annual examination of the books and accounts of all financial officers, of collectors of canal tolls, of registers of the land offices, etc., was provided for, as was also a weekly interchange of the statements of the daily transactions with

<sup>65</sup>At first he was appointed by the governor, but later the office was made elective.

<sup>66</sup>This description of his functions is taken from the report of the Comptroller, *Exec. Doc.*, 1858, I, 629. His duties were prescribed in scattered sections of several acts.

each fund between the offices of auditor, comptroller, and treasurer, and the actual counting once a month of all cash in the treasury and the publication of the result. Under this system the powers of the treasurer were reduced to a minimum and he was made simply a responsible clerk. There was much duplication of work and considerable red tape, but while cumbersome the system was certainly safe.

The act establishing the independent treasury system in Ohio contained two different sets of regulations: one had to do with the methods of paying money into and out of the treasury, and the other with the actual custody of the public moneys and the kind of money to be used. Every payment of money into the state treasury must be made on the draft of the comptroller, and all payments out of the treasury must be by the warrant of the auditor on the treasurer, countersigned by the comptroller.<sup>67</sup> Quarterly settlements of the three financial officers with one another, and frequent examinations of the state treasury were provided for. Similar rules were laid down for the counties: no payments into or out of county treasuries were to be permitted except on the draft of the county auditor. In the provisions regulating the custody of the public moneys the animosity to and dread of the banks can be clearly seen. Indeed the banks at that time were often unscrupulous and corrupting corporations, and occupied a role later taken by the railroads and most recently by the industrial combinations and insurance companies. No money was to be deposited in banks, but the rooms of the state treasurer were to constitute the treasury of the state and to be the sole place for the deposit and safekeeping of the money of the state.<sup>68</sup> The county commissioners were also directed to establish county treasuries where public moneys in the hands of local officials must be kept.

Heretofore the public funds had been kept partly in

<sup>67</sup>These provisions simply duplicated those of the other law just described.

<sup>68</sup>Governor Chase had recommended the use of banks in his message of 1857. *Exec. Doc.*, I, 363. Cf. also message of Jan. 3, 1859, p. 95.

the treasury vault itself and partly in selected banks. In response to a legislative inquiry the treasurer of state reported in 1830 that the greater part of the moneys had been kept in the vault of the treasury and in the Franklin Bank of Columbus, in a chest under lock and key, as a special deposit.<sup>69</sup> The residue consisted of general deposits in the banks of Warren, Lancaster, and Columbus. About 1825, however, in order to meet the convenience of the judges in the northwestern part of the state, and of canal contractors, and others, a fund was deposited in the Western Reserve Bank to facilitate payments there, and collectors of tolls, tax collectors, etc., were instructed to make deposits in that bank. As the financial operations of the state expanded greater use was made of banks throughout the state as depositories and as fiscal agents of the government. They performed a useful service by accepting on deposit the multifarious means of payment which came into possession of the treasury department: checks, drafts, bonds, and certificates of deposit on banks and individuals in Ohio and other states, notes on banks in Ohio and other states, some of a doubtful or suspicious character, and small, defaced and mutilated paper. In return for these the treasurer was privileged to draw in any kind of funds.<sup>70</sup> A few years later the auditor reported that the greater portion of the public moneys were deposited in the different banks of the state,<sup>71</sup> which deposits he characterized as "indiscriminate".<sup>72</sup> As soon as the treasurer discovered that such deposits involved a personal profit for himself then they became the all but universal rule.

An attempt was also made by the independent treasury

<sup>69</sup>Letter of Treasurer, *Ho. J.*, 1830, p. 479. The treasurer adds, "I know of no law in force designating the place or places where the public funds should be kept".

<sup>70</sup>Such an arrangement was made with the Lancaster Ohio Bank. *Ibid.*, p. 480.

<sup>71</sup>Aud. rep., 1837, p. 19.

<sup>72</sup>Aud. rep., Dec. 5, 1838.

act to effect a gradual transition in the character of the money used by the state, from the prevailing bank notes to specie alone. It was provided that after July 4, 1858, all payments from the state and county treasuries of under \$20 must be in specie; after July 4, 1859, under \$50; after 1860, \$100; after 1861, \$200; after 1862, \$300; after 1863, \$400; after 1864, \$500; and after July 4, 1865, all payments must be in specie. A penalty of a fine of from \$20 to \$500 was prescribed for disobeying these provisions. Before this plan could be more than begun the outbreak of the Civil War, the issuance of United States notes, the suspension of specie payments by the banks, and the general use of paper money rendered it impossible of execution.

Embezzlement was also defined in this comprehensive act, and a penalty of imprisonment of from one to twenty-one years in the penitentiary at hard labor, according to the amount embezzled, together with a fine of double the amount, was prescribed. Here was a noteworthy effort to make the punishment fit the crime.

Two criticisms of the independent treasury law were promptly made by Governor Chase, who was ever a shrewd and effective critic of the financial institutions of the state.<sup>73</sup> While provision was made for the payment of specie by the state and county treasuries, no provision was made for the receipt of specie only. Consequently the county treasurers accepted current funds of whatever description, and then bought exchange with these for remittance to the state treasury. As this encouraged the use of foreign bank notes, it would doubtless have been changed soon by legislation, had not the establishment of the national banking system and the tax upon all state bank notes, rendered further legislation along this line unnecessary. The other criticism was more serious. The county treasurers had been made depositaries or custodians of the moneys in their hands, derived from taxation, from casual tolls, and other sources; but as much of this belonged

<sup>73</sup>Gov. Mess. *Exec. Doc.*, 1858, I, 94-96; 1859, II, 51; 1860, I, 548.



to the state the anomaly was presented of county officers acting as custodians for the state government, by whom they were not appointed, to whom they were not responsible, and as to whose bonds the state had no voice.

The system of payments in use on the canals was also made the subject of criticism.<sup>74</sup> The superintendent of repairs rendered a quarterly account to the resident engineer, with the names and amounts due laborers, contractors, and other creditors. The resident engineer then certified to the acting commissioner that he had allowed these various sums, and the acting commissioner drew his check on the auditor. But in order to make up his accounts the superintendent got vouchers from contractors and laborers on a promise to pay the amounts due after he got his accounts settled and paid. They often suffered loss, and the state on the other hand was forced to pay high prices because of the credit system and the uncertainty and delay. The lease of the public works in 1861, and the withdrawal of the state from the operation of the canals, put an end to the system and the objections.

The act of April 12, 1858, establishing the independent treasury system had authorized the governor to have special examinations of the treasury made without previous notice. This was done with considerable regularity at odd intervals for some years, and must have exercised a wholesome check upon all administrative officers in the treasury department. Approval of the system was generally expressed in the reports of these special examiners, of which the following is typical:<sup>75</sup>

The books in all departments are carefully kept, and the system seems so perfect that errors in any of them are soon detected in the others. The system was complicated and called for much duplication, but certainly safeguarded the financial interests of the state effectively. The following description portrays

<sup>74</sup>21st an. rep. B. P. W. *Exec. Doc.*, 1859, I, 641.

<sup>75</sup>Rep. of Special Examiners of the Treasury, Aug. 8, 1866. *Exec. Doc.*, 1866, I, 291.

the practical working of the laws after an experience of seven years.<sup>76</sup>

To keep securely, in special vaults and safes in the treasury itself, the public money collected by taxation, and to separate it entirely from commercial use, has been the object sought by the enactment of the so-called "Sub-Treasury Laws". If an extensive system of accounts, multiplied entries, numerous checks and guards, and frequent examinations of the treasury could effect the purpose, it has been accomplished in the details of the several "acts". Each transaction is transcribed and registered at least ten times, and is posted into seven separate sets of books. There is a comparison weekly of the accounts of the auditor and comptroller with those of the treasurer. Every month an examination of the cash assets is had by the auditor. At the close of every three months the auditor and comptroller, after comparing and adjusting their own records of drafts and warrants, are required to make a settlement with the treasurer, and to ascertain the precise condition of the treasury, and to count the cash, etc. And whenever he deems necessary, the governor may appoint a special examination by an accountant, without previous notice to the treasurer. In addition to all this, the general assembly, or either branch, may order an examination of the treasury by a committee, when it is thought expedient. Furthermore, it is made a high crime and misdemeanor, punishable by fine and imprisonment, to convert, use, loan, or deposit with banks or individuals, any portion of the public money.

After this long description, the treasurer added, "while much complaint has been made of the law, of its being impracticable, and difficult to be strictly observed and adhered to, a careful study of its provisions leads me to the opinion that very little modification is necessary in them." A decade later, however, that third wheel in the system, the office of comptroller of the treasury, was abolished.<sup>77</sup> It had served its purpose and had acted as a salutary check upon the other officers during a period of distrust and reorganization, but had now outlived its usefulness.

The treasury department and the board of public works had been reformed with such thoroughness that no further irregularities developed in those places. But the fever sores of corruption had not been completely eradicated.

<sup>76</sup>Rep. of Treas., *Exec. Doc.*, 1865, II, 41.

<sup>77</sup>73 O. L., p. 79. See also Aud. rep., *Exec. Doc.*, 1876, I, 7.

cated and broke out once more in connection with the institutions of the state. There was looseness and irregularity in connection with purchases of supplies and expenditure of public funds, against which an act of March 9, 1882, was directed;<sup>78</sup> this provided for monthly statements to the auditor from the superintendents and trustees of all the benevolent and reformatory institutions of the state. Another act of the same session—to prevent errors and irregularities in the several state departments<sup>79</sup>—provided that all state officers, heads of departments, commissioners, and other officials should make monthly statements to the auditor of state of the checks and requisitions made by them, on blanks to be furnished by the auditor. The latter was directed to compare such statements and file them. In this way a more careful control and audit of accounts of the state institutions was made possible.

#### THE PRESENT ORGANIZATION AND ADMINISTRATION OF THE TREASURY DEPARTMENT.

After the abolition of the office of comptroller in 1876 the auditor became by law the chief accounting officer of the state. His financial duties are defined as follows: He shall keep in his office full and accurate accounts of all moneys, bonds, stocks, securities and other property and effects paid into or deposited in the state treasury, and manage and direct all negotiations and correspondence concerning the same.

He is compelled to keep accurate account of all appropriations made by law, and of moneys drawn to meet the same; in this respect his duties are those of the federal Register of the treasury. No money may be drawn from the treasury except upon his warrant. Every state officer, board, or department which receives money belonging to the state is required to make weekly payments to the state treasurer, and to file a verified statement of such receipts with the state auditor. The auditor and treasurer must compare statements and balance accounts weekly, publish a joint monthly statement, and make quarterly reports to the gov-

<sup>78</sup>79 O. L. 32.

<sup>79</sup>Act of April 7, 1882. 79 O. L. 77.

error. In December of each year the treasurer must publish in two Columbus papers a tabulated statement of receipts and expenditures for the preceeding year. Money coming into the treasurer's hands is not permitted to lie idle, but must be deposited, since 1894, with certain banks and trust companies called state depositories and designated after competitive bidding by a board of deposit.

The auditor must keep a strict account of all moneys and securities. The auditor's books should at all times show the exact financial status of the treasury. The control of the state's finances has been virtually concentrated in the auditor's office, and the treasurer's position has been reduced to that of custodian of the public funds. The latter official has practically ceased to make an annual report, his brief statement simply repeating the totals of the exhaustive report required by law of the auditor. Upon the treasurer, however, some other duties of a non-financial character have been laid; thus in 1872 he was given the task of making an annual statistical report, hitherto made by the state statistician; this is done in a most perfunctory manner. He is also the head of the state board of elections, and one of his chief duties is the compilation of statistics and election returns.

The auditor stood at the head of the taxing system of the state until the establishment of the permanent tax commission in 1910. Abstracts of the assessment rolls were always returned to him. Settlements must be made with him in February and August of each year. He has also the power to examine the county treasuries upon request made by the county commissioners or county auditor. The comptroller of the treasury had formerly had the power of appointing accountants to examine the county treasuries at his pleasure, but rarely used it. A long step forward in the direction of centralized control in financial matters was taken with the passage of the act for uniform accounting in 1902<sup>80</sup>. This act created a bureau of inspec-

<sup>80</sup>95 *O. L.*, p. 511.



tion and supervision of public offices, at the head of which stands, *ex officio*, the auditor of state. He is directed to formulate, prescribe and install a system of accounting and reporting that shall be uniform for every public office and every public account of the same class.

Every taxing body, public institution, and public service industry must report annually to the auditor. The law practically centralizes the control of local finances in the hands of the state auditor and gives him firm control.<sup>81</sup>

The powers of the state auditor are, however, by no means limited to statutory grants. As financial head of the state administration he meets with the House and Senate committees on Finance and on Taxation, and practically frames the budget. The most permanent<sup>82</sup> and powerful official in the capitol, his advice is both sought and heeded by a shifting and uninformed body of legislators, and he is able to direct as well as to restrain. Practically all important financial legislation is formulated in his office.<sup>83</sup> He has evolved into a powerful administrator of the state's finances, as well as a supervisor of local finances. He is without doubt the most important financial officer in the state.

## II. BUDGETARY LEGISLATION AND PRACTICE. THE CONSTITUTION OF 1802.

The constitution of 1802 sketched in outline only the form of government and left to the legislature the task of filling in the gaps; and perhaps in no respect were the gaps greater than in the case of financial provisions. In the six following paragraphs are stated all the commands

<sup>81</sup>See article on "Recent Tax Reforms in Ohio", in *American Economic Review*, Sept., 1911, p. 517.

<sup>82</sup>The present auditor has held the office since 1909. His immediate predecessors held office respectively thirteen and eight years.

<sup>83</sup>This statement needs modification in view of the great influence exerted by the Ohio Chamber of Commerce, under the energetic leadership of Mr. A. R. Foote.

or restrictions contained in this instrument in any way related to the subject of finance:

Article I, sec. 16. Bills may originate in either House, but may be altered, amended, or rejected by the other.

Sec. 17. Every bill shall be read on three different days in each House, unless, in case of urgency, three-fourths of the House where such bill is so depending shall deem it expedient to dispense with this rule; and every bill having passed both Houses, shall be signed by the Speakers of their respective Houses.

Sec. 21. No money shall be drawn from the treasury, but in consequence of appropriations made by law.

Sec. 22. An accurate statement of the receipts and expenditures of the public money shall be attached to, and published with the laws, annually.

Article VIII, sec. 23. The levying of taxes, by the poll, is grievous and oppressive; therefore, the legislature shall never levy a poll tax for county or state purposes.

Practically the only safeguard prescribed against an improper application of the public funds was the provisions contained in sections 21 and 22 of Article I. The power to impose taxes or to raise revenue was not expressly given to the legislature by the constitution, but was exercised as a power necessarily implied.<sup>84</sup> Neither of these legislative functions, of appropriation or of taxation, was very jealously guarded by the legislature during the early history of the state, but were delegated to executive officers or were exercised by them without express grant of authority. The early laws and especially the tax law of 1825 made the auditor of state a very important and powerful functionary. When there was not enough money left out of the revenues of the canals and public works after improvements had been paid for, the auditor had the power to levy upon the citizens to secure money for the payment of the interest upon the public debt.

In conjunction with the state treasurer and one acting commissioner of the canal board, he could make grants of large sums which were annually expended for the repairs of the public works. On a limited scale Ohio had a complete system of income and expenditure without the agency

<sup>84</sup>Chase's *Statutes*, I, 33.

of the legislature. The provision that "no money shall be drawn from the treasury but in consequence of appropriations made by law" was for years a practical nullity.<sup>85</sup> The withdrawal from the treasury of any amount of money that might be claimed as needed for the repair of the public works, or the payment of interest on the public debt, was held to be authorized by the provisions of a law that remained unrepealed on the statute books. The system was later characterized by the judiciary committee as follows: Our enormous expenditures are authorized in conclave by a handful of men without actual or effective practical responsibility. The deliberations of the Venetian Council of Ten were known by their effects; the deliberations of our council of ten are known by nothing else.<sup>86</sup>

Dissatisfaction with the system of taxation, as also the way in which money was appropriated, led finally to a demand for a change. It was evident that a solid foundation of constitutional law was needed upon which to build an effective system of taxation and control of expenditures. This solid foundation was not to be secured out of the fragments of the first constitution, which dealt so lightly with finance and taxation. New material and more definite provisions were needed, which could be obtained only by framing a new constitution.

#### THE CONSTITUTION OF 1851.

The constitution of 1851 contained careful and specific provisions on the subjects both of appropriations and of taxation. The purpose of the former was to bring the expenditures of public money more thoroughly under the restraints of law, and less subject to the control of individual officers. For the passage of bills, budgetary as well as others, the same legislative procedure was prescribed as had been provided for in the constitution of 1802.<sup>87</sup> The further provision was added, however, that

<sup>85</sup>Aud. rep., Feb. 12, 1853.

<sup>86</sup>Report of Judiciary Committee on Senate Bill 24, Feb. 12, 1849.

<sup>87</sup>See p. 175.

no bill should contain more than one subject, which should be clearly expressed in the title.<sup>88</sup> The appropriation and disbursement of money was more carefully guarded in the following section: "No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years".<sup>89</sup> All discretion was thereby taken away from administrative officers as to the application of public funds; each general assembly was made the judge of its own needs, and could not bind its successors.

On the other hand, the determination of the rate of taxation, and the raising of the necessary revenue, was placed definitely under the control of the legislature in the sections dealing with taxation and finance. After prohibiting the levying of poll taxes, and providing for the uniform taxation of all property,<sup>90</sup> real and personal, corporate and individual, the following sections appeared:<sup>91</sup>

The general assembly shall provide for raising revenue, sufficient to defray the expenses of the state, for each year, and also a sufficient sum to pay the interest on the state debt.

No tax shall be levied, except in pursuance of law; and every law imposing a tax shall state, distinctly, the object of the same, to which only, it shall be applied.

The state shall never contract any debt for purposes of internal improvement.

In every one of these clauses can be seen the fruit of past experiences. Deficit financiering was to be avoided if possible, as was the practice of borrowing to pay the interest on the public debt. Any further debt for the construction or improvement of the canals was forbidden, thus making impossible, without a constitutional amendment, any comprehensive scheme of enlargement such as that adopted in New York for the Erie canal. The clause of section 5, providing for the application of every tax to a

<sup>88</sup>Art. II, sec. 16.

<sup>89</sup>Art. II, sec. 22.

<sup>90</sup>See Chap. IV, The General Property Tax.

<sup>91</sup>Art. XIII, sec. 4-6.



specific object, was unfortunate in so far as it led to the segregation of different sources of income, or the proceeds from certain taxes in separate "funds". The device of having a separate fund for almost every item of expenditure led to a confusing multiplication of such funds, which had no practical significance, were mere bookkeeping abstractions, and served only to complicate the accounts of the treasury department. There was a steady tendency to merge them all in the general revenue fund, and today there exist, outside of this, only the school fund and sinking fund.

#### PRESENT BUDGETARY PRACTICE.

The budgetary practice of Ohio does not differ materially from that of other states.<sup>92</sup> Certain restrictions are placed in the constitution upon the power of the general assembly to levy taxes. Thus, they are forbidden to levy a poll tax, and they are forbidden to classify different objects of taxation, but must tax all property by a uniform rule.<sup>93</sup> In the matter of appropriations, too, they are restrained by the usual provisions as to the reading of bills on three separate days, etc.; no money may be drawn from the treasury except in pursuance of a specific appropriation, made by law; and no appropriation may be made for a longer period than two years. No money may be appropriated for any claim the subject matter of which is not provided for by existing laws, unless it is approved of by two-thirds of the members elected to each branch of the legislature.<sup>94</sup>

The general assembly meets in biennial session in January of each even numbered year. No limit, such as exists in fully half of the states in the Union, is placed upon the length of their session, and extraordinary sessions are frequently called in the intervening years. The fiscal year,

<sup>92</sup>See my article on "Financial Procedure in State Legislatures", in *Annals of the Academy of Social and Political Science*, Sept., 1896.

<sup>93</sup>Art. XII, sec. 1, 2.

<sup>94</sup>Art. II, sec. 16, 22, 29.

on the other hand, begins on November 16, but any inconvenience that might arise from having the legislature convene almost two months later than the beginning of the fiscal year is averted by making the appropriations so that the appropriation period takes in three-fourths of one fiscal year and one-fourth of the next. The general assembly has five or six weeks therefore in which to deliberate before it becomes necessary to provide new appropriations. As a matter of fact, however, two regular deficiency bills are generally introduced at the beginning of each session, one providing for "authorized deficiencies", and the other for "unauthorized deficiencies". Aside from these practically all appropriations are provided for by a general appropriation bill. The committee which has this in charge usually meets in the office of the auditor of state, whose advice carries great weight. Appropriations are usually limited by the revenues that may be expected under the existing tax rates. Money bills may originate in either branch, but usually originate in the House.

The various stages of debate and vote in the passage of financial legislation is not subject to any very different procedure from that accorded ordinary bills. There are standing committees on Finance in both Senate (11 members) and House (13 members); one on Taxation in the Senate (11 members), and one on Taxation and Revenues in the House (13 members). There is no committee of audit in either branch. The rules of the Senate provide that the yeas and nays shall be called upon the adoption of all resolutions providing for the expenditure of money, and a majority vote of all the Senators elected shall be necessary to the adoption of such a resolution.<sup>95</sup> Both Senate and House rules provide that a separate vote may be taken on any item in an appropriation bill, upon the demand of five Senators or ten Representatives; such item to be stricken from the bill unless receiving a majority of all the

<sup>95</sup>*Manual of Legislative Practice in the General Assembly of Ohio* (1910). Rules of the Senate, Rule 43.

members elected, and the yeas and nays to be recorded on such vote.<sup>96</sup> The House stands alone in requiring the reference of every bill carrying an appropriation to the finance committee before its third reading.

A peculiar feature of the Ohio constitution had been the fact that the governor did not possess the veto power, but this was given him by an amendment adopted in November, 1903. He now has the power to veto any bill or any separate section or item of appropriation, but the general assembly may pass it over his veto by a two-thirds vote. His signature is necessary to every bill which he approves, before it can become a law; but if he does not sign or veto a bill within ten days, it shall be law in like manner as if signed.<sup>97</sup> He is allowed ten days in which to make up his mind in Ohio, though most of the states do not allow so long a time.

Money which has been appropriated must be expended within two years, or it reverts to the treasury.<sup>98</sup> To supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for, the state may contract debts to the amount of \$750,000. In case of a deficiency which occurs when the legislature is not in session, an emergency board consisting of the governor, auditor, attorney-general, and the chairmen of the House and Senate finance committees may authorize deficiencies, which are subsequently met by the bill for "authorized deficiencies".

<sup>96</sup>Senate rules, 78; House rules, 87.

<sup>97</sup>Constitution of Ohio, Art. II, sec. 16.

<sup>98</sup>Art. II, sec. 22.

## PART II. THE HISTORY OF TAXATION IN OHIO

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### CHAPTER IV.

#### THE GENERAL PROPERTY TAX.

##### I. THE LAND TAX, 1803-1825.

From 1803 to 1825 the state of Ohio derived the main portion of its revenues from the tax on land. Not until 1825 was the general property tax introduced. The first law in relation to taxation which was passed by the legislature after Ohio became a State, was enacted April 16, 1803. This was entitled "an act to revive and continue in force, several acts levying taxes, and for other purposes." Under the earlier acts thus referred to land was divided into three classes, "according to their quality . . . taking into view the surface of the earth as well as the quality of the soil.<sup>1</sup> As a guide for the listing of land under these three heads, the act continued: "when the greater part of a tract shall be superior in quality to the second rate, it shall be denominated first rate; when a greater part of a tract shall be inferior to the first rate and superior to the third rate it shall be denominated second rate; and when a greater part of a tract shall be inferior to second rate it shall be denominated third rate". The rate of taxation on the first rate land was about 50 per cent more than that on second rate, and this in turn was about 50 per cent higher than that on third rate land. This method of dividing the lands into three classes for purposes of taxation continued

<sup>1</sup>Act of May 1, 1798. For a fuller description of these acts, see chapter on Territorial Finance, p. 11.



unchanged until 1825. The following table gives the rates of taxation from 1799 to 1825:

RATES OF TAXATION FOR 100 ACRES.<sup>2</sup>

Years.	1st Rate.	2nd Rate.	3rd Rate	Penalty for not returning property for taxation.
1799.....	\$ .30	\$ .20	\$ .10	No penalty.
1800.....	.85	.60	.25	10 per cent.
1801.....	.55	.35	.17	50 per cent.
1802.....	.60	.40	.20	50 per cent.
1803.....	.60	.40	.20	25 per cent.
1804.....	.70	.50	.26	25 per cent.
1805.....	.90	.65	.40	
1806.....	.90	.65	.40	
1807.....	.90	.65	.40	
1808.....	1.00	.75	.50	
1809.....	1.00	.75	.50	
1810.....	1.25	1.00	.65	100 per cent.
1811.....	1.25	1.00	.65	100 per cent.
1812.....	1.25	1.00	.65	100 per cent.
1813 <sup>3</sup> .....	1.25	1.00	.65	100 per cent.
1814.....	2.00	1.50	1.00	100 per cent.
1815.....	3.60	2.68	1.78	100 per cent.
1816.....	3.00	2.25	1.50	100 per cent.
1817.....	3.00	2.25	1.50	100 per cent.
1818.....	2.00	1.50	1.00	100 per cent.
1819.....	1.50	1.00	.50	50 per cent.
1820.....	1.50	1.00	.50	25 per cent.
1821.....	1.00	.75	.50	25 per cent.
1822.....	1.50	1.12½	.75	25 per cent.
1823.....	1.50	1.12½	.75	25 per cent.
1824.....	1.25	.87½	.56	25 per cent.
1825.....	1.50	1.12½	.75	25 per cent.

By another early law<sup>4</sup> the owners were required to give

<sup>2</sup>Table taken from auditor's report in *Ho. J.*, 1825, p. 22, for years 1800-1818. The rest of the auditor's table is incorrect, and the rates are taken from the laws.

<sup>3</sup>The *Ho. J.* for 1814, p. 147, gives the rates for 1813 as follows: First rate, \$1.87½; second rate, \$1.50; third rate, .97½.

<sup>4</sup>Act of Dec. 19, 1799.

a list of their lands, on oath, to the county commissioners; those refusing were fined \$30 and their taxes were doubled. Any person giving evidence of a violation of this law was to receive one-half of the fine. The taxes were collected by the sheriff, or other collector, who received 6 per cent<sup>5</sup> of all he collected by way of compensation. Lists of lands belonging to non-residents were kept by the county auditor and clerk of the peace.

It is clear that under this system of individual listing of land for taxation there was a strong temptation to omit lands altogether from the list or to place the land in a lower class, for which the tax-rate was smaller. The basis of classification adopted by the listers and county commissioners was also unfair in many cases.

Bottom lands, along the streams and rich prairie, were first rate and paid the highest tax. These lands might be worth very little from many circumstances, such as their liability to be overflowed by freshets, and might be distant from any town, so that even third rate lands might be far more valuable than the first rate lands. For mere cultivation, the second rate lands, lying generally on what was denominated second bottoms, were better adapted to produce grain than those of the first class.<sup>6</sup> The result of this system was a steady transference of land from the higher to the lower classes, practically all of the new entries being listed as second or third rate. This tendency is clearly shown in the following table:<sup>7</sup>

<sup>5</sup>The compensation of the sheriff was raised to 7% by act of Jan. 23, 1802.

<sup>6</sup>Atwater, *History of Ohio*.

<sup>7</sup>This table is compiled from the auditor's annual reports. The table now reprinted each year in the auditor's report is not complete, and not altogether accurate.

AMOUNT OF LAND IN DIFFERENT CLASSES, AND AMOUNT OF TAXES THEREON,  
1802-1825.

Years.	First Quality of Land.	Second Quality of Land.	Third Quality of Land.	Total Number of Acres.	Total Taxes.	Share of State.
	Acres.	Acres.	Acres.			
1803.....	101,709	2,326,226	3,641,694	6,069,629	22,321	¾
1804.....	number	of acres in	different	.....	.....	..
1805.....	rates	not disting	uished.	7,252,856	43,512	¾
1806.....	"	"	"	7,917,590	48,260	½
1807.....	"	"	"	7,886,841	43,632	½
1808.....	147,093	5,080,133	5,241,804	10,479,029	67,501	½
1809.....	141,805	3,971,825	5,810,403	9,924,033	63,991	¾
1810.....	129,741	4,177,950	5,625,408	9,933,099	85,904	¾
1811.....	234,335	6,456,113	5,444,329	12,034,777	170,547	¾
1812.....	185,775	5,585,367	6,598,890	11,370,032	155,137	¾
1813.....	179,666	4,858,750	5,895,907	10,934,323	108,761	?
1814.....	180,370	4,919,968 <sup>8</sup>	5,995,540	11,095,878	165,196 <sup>8</sup>	⅞
1815.....	174,819	4,856,997	6,058,398	11,090,214	259,486	⅞
1816.....	173,741	4,366,846	6,098,517	10,639,104	229,898	¾
1817.....	165,492	5,027,390	6,138,738	11,331,620	231,812	¾
1818.....	205,344	5,174,726	6,334,404 <sup>9</sup>	11,714,468	169,185	¾
1819.....	126,138	5,251,270	7,261,632	12,639,040	179,476	¾
1820.....	255,082	7,304,633	5,759,323	13,319,043	205,347	¾
1821.....	241,914	7,734,974	6,402,336	14,380,224	171,649	¾
1822.....	226,084	6,870,921	6,585,449	13,682,454	188,648	¾
1823.....	234,000	6,859,439	7,016,312	14,110,381	194,290	¾
1824.....	222,852	6,822,230	7,675,566	14,720,648	170,761	¾
1825.....	178,998	5,672,277	7,173,798	13,025,073	200,405	?

That these provisions were not satisfactory is evident from the following quotation from the governor's message in December, 1803:<sup>10</sup>

<sup>8</sup>The *Ho. J.*, 1815, p. 24, gives second rate land as 4,713,841 and the tax as \$159,116.

<sup>9</sup>There was a mistake in the original item, the result of an error in addition.

<sup>10</sup>*Ho. J.*, 1803-4, p. 8.

The laws levying a tax on land should be revised: lands of resident proprietors should be listed anew, and a list of all lands acquired by individuals but not entered for taxation, should be secured. Also a more expeditious and certain way of obliging delinquent collectors to account for and pay into the treasury, their balances, should be devised.

During this session of the legislature the first positive act on state taxation was passed,<sup>11</sup> providing that "all lands, the property of individuals, within this state, shall be chargeable for the state expenses". Listers were appointed in each township who were to require owners to list their lands by April 15; if they refused, double taxes were to be imposed. In accordance with the compact made between the federal government and Ohio, when she entered the Union, lands purchased from the United States after June 30, 1802, were to be exempt for five years. Owners of land in the Virginia military district were taxed separately, and had their own collectors and tax machinery.

This act did not meet the real difficulties, and as the old laws were left unrepealed, considerable confusion resulted. The act levying a State tax, passed at the last session, taken into view with those heretofore enacted on that subject....present difficulties to those concerned in the collection of the revenue, in ascertaining the duties expected of them.<sup>12</sup>

But even more difficult than the administrative questions was the problem of taxing the lands of non-residents. All lands of non-resident proprietors (other than those in the Virginia military district) were listed for taxation in the counties where they were situated, and the tax collected by the sheriffs in those counties. But with the settlement of the state and the consequent division of old and erection of new counties, this imposed a heavy burden upon non-residents, many of whom had land in different counties, and in many cases necessitated the employment of separate agents in every county where their lands were situated. As a remedy for this evil the governor suggested<sup>13</sup> the establishment of collection districts throughout the state similar to the Virginia military district, with a collector

<sup>11</sup>Feb. 18, 1804.

<sup>12</sup>Gov. Mess., *Ho. J.*, 1804-5, p. 10.

<sup>13</sup>Gov. Mess., *Ho. J.*, 1805-6, p. 14.



in each, to whom taxes should be paid, or else the payment of their taxes by the non-resident proprietors to the state treasurer, irrespective of the location of their lands.

In response to this suggestion the legislature provided<sup>14</sup> for the division of the state into six large collection districts for the taxation of the lands of non-residents, and for the appointment of a collector in each. The holdings of lands by non-residents were very large, about double those of residents, and they paid about two-thirds of the taxes into the state treasury. The methods of ascertaining and assessing the lands were still very crude, however, and the amount returned for taxation steadily decreased;<sup>15</sup> whatever increase there was took place in the third rate land. This was temporarily arrested by the passage of a more careful law in 1810, but the decline of the lands of non-resident proprietors continued again after this, partly no doubt as the result of their sale to resident proprietors. These facts are clearly shown in the following table:

NUMBER ACRES OF LAND TAXED IN OHIO.<sup>16</sup>

Years	1st Rate		2nd Rate		3rd rate		Total		Total Taxes	
	Non-resident	Resident	Non-resident	Resident	Non-resident	Resident	Non-resident	Resident	Non-resident	Resident
1808	34,322	112,770	3,360,754	1,719,379	3,932,714	1,309,090	7,337,789	3,141,240	47,169.86	20,331.75
1809	30,392	111,413	2,134,978	1,827,847	4,180,831	1,629,572	6,355,201	3,568,832	40,967.00	23,025.00
1810	28,773	100,968	2,248,350	1,929,600	4,086,663	1,538,745	6,263,787	3,569,314	55,317.00	30,647.00
1811	.....	.....	.....	.....	.....	.....	7,279,081	4,855,696	127,927.00	42,620.00
1812	20,179	165,596	2,994,363	2,591,004	3,608,477	1,990,413	6,623,019	4,747,012	112,250.00	42,888.00
1813	18,356	161,310	2,070,096	2,788,654	3,576,707	2,319,200	5,665,159	5,269,164	62,424.00	46,342.00
1814	17,718	162,652	1,758,489	2,955,352	3,583,245	2,412,295	5,359,452	5,530,299	78,726.00	80,390.00
1815	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1816	18,948	154,792	1,543,576	2,823,269	3,462,512	2,635,994	5,025,036	5,614,056	107,023.00	122,875.00
1817	11,403	154,089	1,536,996	3,490,394	3,261,143	2,877,595	4,809,842	6,522,078	100,812.00	130,999.00
1818	9,560	195,784	1,377,826	3,796,900	3,168,788	3,165,616	4,556,174	7,158,500	73,903.00	95,281.00
1819	9,751	116,387	1,310,655	3,940,615	3,022,081	4,249,551	4,352,487	8,306,553	68,512.00	100,963.00

<sup>14</sup>Act of Jan. 27, 1806.

<sup>15</sup>Between 1808 and 1809 there was a decrease of 554,996 acres, in spite of a large number of new entries. Aud. Rep., *Ho. J.*, 1810, p. 15.

<sup>16</sup>The returns were not given separately for residents and non-residents before 1808, nor after 1819, nor for the year 1815.

Residents were required, as formerly, to enter their lands with the listers of the townships in which they resided, but the inadequacy of this provision soon became evident. As there was no penalty for neglecting this duty a great deal of land was not returned for taxation. It was often discovered, when some new resident or purchaser gave in his land, that tracts had not been charged with the tax for years back, but no way was open to the auditor to ascertain these facts or to recover the back taxes.<sup>17</sup> While the evasion of taxes by placing the land in a lower class was not as marked in the case of resident as of non-resident proprietors, still the third rate land always showed the largest increases. In the years 1809 to 1810 there was practically no increase in the amount of land owned by residents. As a remedy for these evils the auditor suggested the making of

one general and effectual list . . . both as it respects the quantity and quality, and render such list permanent; subject, however, to such transfers as any proprietor may legally cause to be made, in case of sales, or otherwise.<sup>18</sup>

To meet these criticisms the long and important act of 1810, "levying a tax on land", was passed.<sup>19</sup> A lister was appointed in each county, who was to require of each resident listing his lands for taxation an oath<sup>20</sup> that the list he presented was correct. If the resident refused to make out a list, then the lister was to enter the lands as first rate and charge them with a double tax. All lands were to remain each year upon the list at the same rate until sufficient proof was produced that it should belong to a superior or inferior class, when it would be changed and put in its proper place.

The county commissioners were required to make two alphabetical lists of resident lands; to appoint one collector for each county, who should collect the taxes after

<sup>17</sup>Gov. Mess. *Sen. J.*, 1809, p. 16. See also message for 1810 in *Ho. J.*, 1810, p. 27.

<sup>18</sup>Aud. Rep., *Ho. J.*, 1810, p. 10.

<sup>19</sup>Act of Feb. 19, 1810. Chase's *Stat.*, ch. 244.

<sup>20</sup>The oath, as a remedy for defective legislation, is to be found in Ohio tax laws from this date down to the present time.

August 1. If the tax should not be paid by November 1, he was empowered to sell the personal property of the delinquent at public auction. For non-residents, the state was divided into six districts, and one collector was appointed in each, who was to advertise the manner of collection, the time of payment, etc. The state auditor was to make out the list of non-resident lands. If the tax were not paid by December 1, a penalty of 100 per cent was to be added. Non-residents were required to relist all lands within one year, under oath; if this were refused, then the auditor was to enter them as second rate. The old laws were repealed and codified in 1816,<sup>21</sup> when this act of 1810 was virtually re-enacted at greater length, but no important changes were introduced. It was provided that when land was found not taxed it was to be charged as second rate, and back taxes with penalty were to be imposed.

In 1810 what may be considered as the first general valuation of real estate in Ohio was made.<sup>22</sup> A list of all the lands of resident proprietors was taken, setting forth the owner's name, the original proprietor's name, the quantity of acres then listed, and the rate of each tract, as also the quantity of acres contained in the original tract, the number of entry (having allusion to lands in the Virginia military district), or grant (lands within the French grant), or range, township, section or lot (having reference to the lands purchased from the United States, the lands in the Connecticut reserve, in Symmes' purchase, the Ohio company's purchase, that tract called the donation lands, the United States military district, and the Refugee tract). The list was very poorly made, wrong numbers inserted in describing the tract, and so many errors introduced that it led to great confusion, and to omission of some lands from the lists and of double taxation of others in subsequent years.

The additional burdens necessitated by the war of

<sup>21</sup>Act of Feb. 26, 1816.

<sup>22</sup>Act of Feb. 19, 1810, § 4, 5. See Aud. Rep., in *Sen. J.*, 1815, p. 190.

1812 caused a considerable increase in the amount of taxation. In 1813, 1814, and 1816 the federal government laid a direct tax on the states, and gave them the option of assuming the tax so laid as a state obligation or having it assessed and collected by federal officers. Ohio in each instance assumed the tax and paid it promptly. The quota apportioned to Ohio by the direct tax of 1813 was \$104,150; this was subject to a deduction of 15 per cent if paid by February 10, 1814, or 10 per cent if paid by May 10.<sup>23</sup> By the eighth section of the act levying this tax the states of Ohio and Louisiana were authorized to tax the lands purchased of the United States, in spite of the previous compact with these states that such lands were not to be taxed until five years after their purchase. In order to take advantage of the discount offered for prompt payment of the tax, a temporary loan of \$55,000 was made, which was paid the following year out of increased taxation.

The House Committee on Finance estimated<sup>24</sup> that an increase of 50 per cent on the present rates of tax for land heretofore subject to taxation, with the existing rates of tax applied to land newly subjected to taxation,<sup>25</sup> would probably yield \$110,545 for the year 1814; as the current expenses of the state government were estimated at only \$37,500, this would leave a surplus after paying off the loan of \$55,000. The same committee disapproved any change in the system of taxation in the direction of taxing personal property or banking corporations.<sup>26</sup> The rate of taxation was raised about 50 per cent, being increased from \$1.25 per 100 acres in 1813 to \$2.00 in 1814 for first rate land.<sup>27</sup>

<sup>23</sup>Act of Congress, Aug. 2, 1813. Ohio paid her quota before the first mentioned date, thereby reducing it to \$88,528.

<sup>24</sup>Rep., Jan. 18, 1814, *Ho. J.*, 1814, p. 142.

<sup>25</sup>Under act of Congress of Aug. 2, 1813, as cited above. The legislature, however, did not take advantage of the permission thus given, as it was felt it would involve a breach of contract with the purchasers of these lands.

<sup>26</sup>*Ibid.*, p. 179.

<sup>27</sup>See table on p. 182. The rates on other grades of land were changed proportionately.



In 1814 the state again met the second direct tax by means of a temporary loan of \$104,000 and a further increase in the rates of taxation, from \$2.00 to \$3.60 for first rate land. In 1816 a third loan of \$32,000 was raised, but this time it was found possible to reduce the tax-rate slightly to \$3.00 on first rate land, as the taxes were now so lucrative. The amounts raised by taxation during the five-year period from 1814 to 1818 were as follows:

Year	Resident	Non-resident
1814 .....	\$ 80,390	\$ 78,726
1815 .....	.....	.....
1816 .....	122,875	107,023
1817 .....	130,999	100,812
1818 .....	95,281	73,903

Attention had now been directed to the tax system and as its defects became more apparent a movement for a change began. On January 11, 1815, the Senate passed a resolution asking the state auditor to report as to "the difficulties and embarrassments that exist in the present system of taxation" and to suggest "a more perfect system, in whole or in part." The auditor could find no defect in the law, though he admitted that errors did occur in the listing of the land of resident proprietors for taxation, which he attributed to the negligence of the listers or of the proprietors themselves; in the case of non-residents he thought the system would be improved by permitting non-residents to pay their taxes directly into the state treasury.<sup>28</sup>

A more serious study was made of the situation a few years later by the standing committee of Finance in the House, for which the chairman, Mr. Kelly, presented a report which criticized existing methods and yet had no very far-reaching remedies to offer.<sup>29</sup> They were convinced that many defects existed in the present system, and thought the most equitable and simple method of taxation was to levy a tax on lands in proportion to their value. But on account of the expense and the constantly chang-

<sup>28</sup>Aud. rep., Jan. 13, 1815. *Sen. J.*, 1815, pp. 190-196.

<sup>29</sup>*Ho. J.*, 1820, pp. 105-108.

ing values of land all over the rapidly growing state, any system which involved the frequent valuation and equalization of land did not seem desirable. It was also impolitic as well as unjust to tax improvements. The committee did not think a perfect remedy could be devised for the existing inequalities in the assessment of lands, but suggested the creation of a fourth class and the entering of certain tracts as fourth rate. The present system was found to be too complicated and intricate, especially in the matter of making transfers, where errors often removed many tracts of land from the lists both of resident and of non-resident proprietors, while other tracts appeared in both lists and were doubly taxed. The remedies suggested did not go to the root of the matter; they were that all taxable lands, and transfers, should appear on the tax list of the county in which they were situated; that the taxes be payable either in the home county or at the state treasury, at the option of the owner; and that the office of non-resident collector be abolished.

Later in the session was passed an act,<sup>30</sup> "levying a tax on land", embodying these and other suggestions, the first important law relating to the system of taxation that had been passed since 1810.<sup>31</sup> This was a long act of 63 sections, repealing and codifying previous acts, but not introducing any change in principle. The duties of county auditors and collectors, and of the auditor of state, were prescribed more carefully, and in greater detail; and the county auditor was to be elected annually. To secure more certainly the listing of all lands, it provided that if a proprietor should refuse or neglect to furnish a list, the county auditor should charge his land as first rate until he should furnish a list and prove that the land was in the wrong class. An amendment of February 25, 1824, provided that non-resident proprietors might pay their taxes to the state auditor, instead of to the county officials.

<sup>30</sup>Act of Feb. 8, 1820. Chase's *Statutes*, 472.

<sup>31</sup>An unimportant act of Feb. 8, 1819, had reduced the salaries of collectors of taxes on lands of non-residents by 25 per cent.

Below is given a copy of the form of returns used by the commissioners in the listing of land for taxation under the act of 1820;<sup>32</sup> it is difficult to believe it could have been satisfactory, it is so brief and, it would seem, inadequate. The change in the tax system met with hearty commendation, however, the state auditor citing the greater centralization of power and responsibility in the county auditors as the chief advantage.<sup>33</sup>

It has brought into taxation very many tracts of land that had never before been on the duplicates, and many others that were either lost by transfers from non-residents to residents, from one county to another, or from intention or negligence in the commissioners.

No further changes were made until the tax law of 1825 introduced an entirely different system.

#### ASSESSMENT AND COLLECTION OF TAXES.

Owing in part to the inefficiency of governmental legislation and administrative machinery, and in part to the wide dispersion of a scattered population over a large territory, the early returns of taxable property were loosely and vaguely made, and the assessments tardily and imperfectly collected. "In a word, our fiscal establishment is as destitute of strength and circumspective activity, as it is of necessary checks."<sup>34</sup> The defalcations, or delinquencies, in the assessed taxes were large throughout the whole of the early period, under the system of the land tax. In 1806, they amounted to \$2,000 in a total of \$50,000, or 4 per cent;<sup>35</sup> in 1809, they were \$7,500 in a total of \$37,000, or 20 per cent.<sup>36</sup> All land was grouped in three classes, for purposes of taxation, and to each an arbitrary value was assigned, on which different rates were imposed. There was naturally an irresistible temptation to take land

<sup>32</sup>The return called for the taxpayer's name, the quantity of land, on what water course and county, by what title, what rate, amount of tax.

<sup>33</sup>Aud. rep., *Ho. J.*, 1821, p. 62.

<sup>34</sup>Rep. of joint com. to examine books and accounts of auditor and treasurer. *Sen. J.* 1804, p. 201.

<sup>35</sup>Aud. rep. *Sen. J.*, 1805-6, p. 16.

<sup>36</sup>Aud. rep., *Ho. J.*, 1810, p. 267.

out of the higher and put it into the lower classes, especially as the owner practically listed his own land.<sup>37</sup> Much land also escaped taxation altogether, as there was no penalty for omitting it.

But not merely was there laxity, with respect to the assessment of taxes; there was equal looseness in regard to their collection. Taxes were collected by district collectors and by them paid into the county treasuries, which then remitted to the state treasury the share due it. There was, however, no way of compelling the payment from the counties to the state of its share, and as the counties seem for several years to have anticipated or overdrawn their funds, they could not respond to the calls made upon them. The state must therefore wait until such counties have a surplus of money in their treasuries, and are willing to return the sums thus improperly made use of; which ought, of right, to have been punctually paid over for the use of the state, as required by law.<sup>38</sup>

Several counties were at this time indebted to the state treasury for considerable sums.

No provision was made for the collection of information as to the sums expended for county and township purposes, but the governor in 1820 estimated that they exceeded three-fourths of all the taxes paid.<sup>39</sup> In the same year the standing Committee on Finance of the House reported that the system of taxation was too complicated and that the assessments were unequal, and suggested as remedies that all lands should be assessed, transfers made, and taxes collected in the counties in which the lands lay, and that the office of non-resident collector be abolished.<sup>40</sup> New lists were made the following year, and corrected much of the confusion and mistakes of the lists of 1810.<sup>41</sup>

<sup>37</sup>Gov. Mess., *Ho. J.*, 1810, p. 27. Aud. rep., *ibid.*, p. 15.

<sup>38</sup>Aud. rep., *Ho. J.*, 1810, p. 260. Cf. also Aud. rep., *Ho. J.*, 1811, p. 18.

<sup>39</sup>Gov. Mess., *Ho. J.*, 1820, p. 11.

<sup>40</sup>*Ho. J.*, 1820, pp. 105-108.

<sup>41</sup>*Ho. J.*, 1821, p. 14.



## EXEMPTIONS.

The first exemption made by the tax laws of the state of Ohio was contained in the act of February 18, 1804,<sup>42</sup> which provided that lands purchased from the United States after June 30, 1802, should not be taxed for 5 years from the date of sale. In the act of February 19, 1810, there was contained the statement that "all lands within this state and not exempted by any contract between the United States and this state shall be subject to taxation". In the tax law of February 26, 1816, the provision "and not exempted by any law of this state", was added; but as no exemptions were made by the laws of the state until 1821, this clause was meaningless. In that year the first specific exemptions from taxation were made by act of February 2, 1821.<sup>43</sup> This act declared that

all tracts of lands with the houses and improvements not exceeding fifteen acres, the title of which is vested in any person or persons for the use and in trust for any religious society within this state, and occupied solely by such society, as a meeting house or burying ground, shall hereafter remain free from taxation, for state, road, township or county purposes; as shall all land which is the property of any academy, college, or other seminary of learning, which now is or hereafter may be established within the state.

The modern practice of exemption by specific enumeration may be said to have been introduced by the act of February 25, 1824, which added considerably to this list: it exempted lands of any religious society, not exceeding fifteen acres; Congress lands for five years after date of sale; all lands the property of any college or academy of learning; the property of the state; all land included within the plat of any town that now is or may hereafter be regularly laid out and recorded according to law. By this last provision, town lots would seem to have been reserved for local taxation, a notable step in the segregation of the sources of revenue to have been taken thus

<sup>42</sup>Chase, *Statutes of Ohio*, I, ch. 45.

<sup>43</sup>Chase, *Statutes*, I, ch. 510.

early.<sup>44</sup> This separation was, however, abandoned the next year when the general property tax was introduced as a means of raising state revenue.

The list of exempted property was still further extended by the act of February 2, 1825. This enumerated the land and improvements of any religious society (not over 15 acres) and of any school or college, when used exclusively for educational or religious purposes; the lands and improvements owned by any county for the use of the poor (not exceeding 200 acres); all public grounds and buildings; lands sold by Congress for five years after sale;

also one cow where the owner has no other taxable property; all grist and saw-mills; all woolen and cotton factories; all manufactories of paper, salt, iron, or glass, all distilleries, tanneries, and all nail factories.

These exemptions show clearly the progress which manufactures had made in Ohio, and what industries it was desired to foster.

#### SALE OF LAND FOR NON-PAYMENT OF TAXES, AND REDEMPTION.

The early laws are full of severe provisions and penalties directed against delinquent tax payers. The collectors of the taxes were paid collection fees of 4 per cent of the taxes on the property of non-resident proprietors, and 6 per cent of the taxes on the property of residents. That it was extremely difficult to collect the taxes, especially in the case of non-residents, is abundantly shown by the amount of defalcations in the assessed taxes reported from year to year. In a barter economy, such as still prevailed to a considerable extent in Ohio at this time, even the moderate taxes seemed a heavy burden. In 1806 it was estimated that the defalcations would amount to about 5 per cent.<sup>45</sup> The amount of money paid into the state treasury in 1809 was \$28,270, and the defalcations \$7,518.

"By the act of February 23, 1824, all inlots and outlots in towns with improvements and all other houses over one hundred dollars in value were made subject to county levies, and the rates were fixed at one-half of one per cent of the value.

<sup>45</sup>*Sen. J.*, 1805-6, p. 16.

or one fifth of the total.<sup>46</sup> In 1814 the amount of taxes levied was \$162,196, while the amount collected was \$132,403. In 1816 the amount levied was \$229,897, while only \$187,459 was collected. In 1819 the figures were \$179,476 and \$129,519. And the same difficulty prevailed throughout the entire period 1802-1825. The worst offenders in this respect were the non-resident proprietors, most of whom probably held their land for purely speculative purposes.

Accordingly we find that Ohio began very early to provide for the collection of delinquent taxes by authorizing the sale of property for back taxes. The first law on this subject was the territorial law of May 1, 1798, which provided that arrears of taxes should bear 10 per cent interest, and authorized the collector to sell at public auction so much of the land as would pay the taxes. This was repeated the following year,<sup>47</sup> and extended to the lands of non-residents:

If any person does not pay his taxes by the first of October, the sheriff may distrain his goods and chattels, and if the taxes are not paid within twenty days, the things shall be sold at public auction and the amount above the taxes shall be returned to the owner.<sup>48</sup>

If goods and chattels to an amount sufficient to pay the taxes could not be found, then part of the land should be sold. Evidently this law proved too harsh, for in 1800<sup>49</sup> the further sale of non-residents' lands was postponed until March 20, 1801. In 1802<sup>50</sup> the law was re-enacted in a still stronger form: if the tax was not paid by the first of October, the sheriff was to sell enough personal property to pay the tax; if no personal property could be found, a penalty of 50 per cent was to be added, and if this were not paid by the first of November, enough land should be sold to pay the tax and the penalty.

In 1804 the first state law on the subject was passed,<sup>51</sup>

<sup>46</sup>*Sen. J.*, 1810, p. 208.

<sup>47</sup>Act of Dec. 19, 1799.

<sup>48</sup>*Ibid*, sec. 12.

<sup>49</sup>Act of Dec. 9, 1800.

<sup>50</sup>Act of Jan. 23, 1802.

<sup>51</sup>Feb. 18, 1804.

but in less severe form than the territorial laws, which had meanwhile prevailed. If the tax, with penalty, was not paid within one year from the listing of the property, the collector was to advertise a public sale in the county and in five other places, and to sell enough land at public auction to pay the tax and penalty. A slight variation was introduced in 1806<sup>52</sup>—if the taxes of a non-resident were not paid by December, the collector was to sell the land to that person who would pay the tax and interest for the smallest quantity of land. One-half of the tax was to go to the county within which the land lay, and one-half to the state.<sup>53</sup> By the act of 1810<sup>54</sup> lands returned delinquent, on which no tax was paid for three years, were to be sold at public auction to the highest bidder.

For the next decade there was no further legislation on the subject. Indeed, after the War of 1812 and the consequent "hard times" the system broke down completely. It was found very difficult to collect the taxes and still more so to find purchasers for delinquent lands. Acts were passed in 1815, 1818, and 1819,<sup>55</sup> to postpone the sale of lands for non-payment of taxes for one year, and in 1820<sup>56</sup> for two years. The real reason for the breakdown of the system, however, lay in the laws providing for the redemption of lands sold for taxes and in the insecure title given to the purchasers of such land.

Although taxes were levied on lands, for the support of the state government, yet they were so poorly paid and the sales for taxes were so loosely, carelessly made by the collectors, that a tax title on land was good for nothing. The more of them one had, the poorer he would be.<sup>57</sup>

A brief survey of the laws providing for the redemption of lands sold for taxes will make this point clear.

By the territorial law of 1802<sup>58</sup> lands sold for taxes were to revert to the owner on payment, within one year,

<sup>52</sup>Jan. 27, 1806.

<sup>53</sup>The share of each is given in the table on p. 184.

<sup>54</sup>Act of Feb. 19, 1810.

<sup>55</sup>Feb. 14, 1815; Jan. 29, 1818; Feb. 8, 1819.

<sup>56</sup>Feb. 8, 1820.

<sup>57</sup>Atwater, *History of Ohio*.

<sup>58</sup>Act of Jan. 23, 1802.



of the tax, costs, and 60 per cent penalty; the purchaser was to have his money refunded. The laws of 1804, 1806, and 1807<sup>59</sup> provided for the redemption of lands sold for taxes and belonging to minors, feme coverts [*sic*], insane persons, or persons in captivity, within one year by payment of the tax, interest, and penalties. While the act of 1808<sup>60</sup> was slightly more severe on the delinquent taxpayer, yet it made the position of the purchaser of a tax title still more insecure and removed the incentive for the purchase of such lands. It provided that the owner might redeem his land, if sold for taxes, within one year by paying the tax, costs, and 100 per cent damages. The purchaser of the tax title must claim his money back within six months; after six months and up to three years he must produce the certificate of sale.<sup>61</sup> The purchaser, moreover, was saddled with the tax of the following year. The only wonder is that under such a system there were any purchasers of delinquent lands. The purchase of tax-titles was a pure speculation, involving a certain loss if unsuccessful, and a title of doubtful validity if successful. No purchaser could afford to risk making any improvements on land so held, and the interests of all concerned suffered under such a system. No further change was made in the law governing this subject until 1822.<sup>62</sup>

The act of January 30, 1822, "for the sale of lands for taxes", completely reversed the easy-going, slipshod methods of the earlier laws, and by giving the purchaser of delinquent lands a valid title stimulated the purchase of such lands and brought about the prompt payment of taxes. First of all the books were cleared of the accumulation of back taxes: if arrearages of land taxes be paid by December 10, it was provided that all penalties should

<sup>59</sup>Feb. 18, 1804; Jan. 27, 1806; Jan. 31, 1807.

<sup>60</sup>Feb. 22, 1808.

<sup>61</sup>Apparently he lost his money unless he demanded it within three years and produced the certificate of sale.

<sup>62</sup>The laws of Jan. 4, 1816, and Feb. 26, 1816, sec. 34, relate to the mode of redeeming lands of minors, feme coverts [*sic*], insane persons.

be remitted.<sup>63</sup> If this was not done, the law then prescribed a careful procedure for listing, advertising, and selling such lands. After advertising, a judgment of the land to the state is to be secured from the court of common pleas. The purchaser of such lands at the tax sale shall receive a deed from the auditor which

shall be received in all courts in this state and elsewhere, as prima facie evidence of good title to the lands mentioned therein, nor shall the title conveyed by such deed, be invalidated or affected

by any error in charging or collecting the tax or in the tax sale.

This act cleared up the old difficulty of disputing the validity of tax sales on technical errors, and gave a secure title to the purchaser. The process of correcting the lists of delinquent lands was, however, a slow one. Often the owner did not know that lands were on the delinquent list until they were declared forfeited and advertised for sale, and in many cases lands on which taxes had been paid were thus treated, owing to errors in recording. In many cases, however, the taxes had been evaded or unpaid. Forfeited lands were exposed to sale in the neighborhood where they were situated, when "persons from almost every part of the county, came forward, either to correct or pay the taxes on their lands which stood in arrears".<sup>64</sup>

In order to hasten the clearing of the docket of these interminable delinquencies, the act of January 18, 1826, enacted that all lands upon which taxes had not been fully paid up to January 1, 1826, should be deemed delinquent, and that all penalties and delinquencies must be paid by August 1. This brought forth a protest from the non-resident, as well as the resident, owners, and the legislature was compelled to recede from this position; twice they extended the time for the payment of the taxes and penalties. On December 15, 1826, there still remained of lands forfeited to the state for the non-payment of taxes,

<sup>63</sup>The act of Dec. 15, 1823, suspended this for four and one-half months because of many errors in the lists of delinquent lands; that is, until the errors could be corrected.

<sup>64</sup>Aud. rep., Dec. 15, 1826. *Ho. J.*, 1827, p. 84.

not yet redeemed, 604,590 acres; this represented unpaid taxes to the amount of \$127,912. The interests involved were sufficiently powerful to compel still further concessions, and on January 29, 1829, there was passed a bill remitting all penalties at that time due, but requiring the payment of the taxes. This ended the struggle over the delinquencies of the land taxes under the old system.

#### CRITICISMS OF THE EXISTING TAX SYSTEM.

In referring to this system of taxation, as it existed between 1803 and 1825, Solomon P. Chase subsequently expressed himself as follows:<sup>65</sup>

That this system was inconvenient and inequitable, is very manifest. The assessment of taxes for state and county purposes, on different descriptions of property, was productive of no little embarrassment and difficulty; while the assessments according to rates and not according to value, resulted in great and grievous inequality, which became more and more conspicuous and vexatious with the progressive, but very unequal increase, in the value of land.

But an even more important reason leading to the reform of the existing system of taxation was the necessity of larger revenues. In 1825 the work of building canals was entered upon by the state, and for this purpose and the payment of interest on loans, it was necessary to increase the revenues of the state. The governor, in his message for this year,<sup>66</sup> suggested that the whole product of the land tax be made payable to the state treasury for state purposes,<sup>67</sup> and that additional taxes be imposed as follows: on judicial processes in civil cases, on capital employed in trade, on pleasure and travel carriages, on brass and other clocks and on gold and silver watches; the product of such taxes in whole or in part to be made payable to the county treasury of the respective counties where in the tax is levied. That part of the message which related to the revenue of the state was referred to a joint committee of the legislature, which brought in a lengthy re-

<sup>65</sup>Gov. Mess., Jan. 2, 1860. *Exec. Doc.*, 1859, II, 29.

<sup>66</sup>Gov. Mess., *Ho. J.*, 1825, p. 14.

<sup>67</sup>One-fifth was paid to the counties in which the tax was collected.

port<sup>68</sup> and a bill embodying the principle of the general property tax. The report reads like that of a modern tax commission and is of such importance as to justify quoting at some length.

The present system was adopted by the first territorial legislation at their session of 1799, and went into operation in 1800, when the population was about 40,000 and the settlements recently made....At this early period of the settlement of the country, the improvements on land and personal property were inconsiderable, and a tax on lands alone could be relied on for support of the government. Under the system then as now, the lands were to be entered for taxation, as 1st, 2nd, and 3rd rate, and the relative fertility of the soil alone fixed the rate in which it was to be entered, without regard to situation or any local advantages....The system therefore, though defective in detail, was at the time of its adoption, and in the early stage of the government, perhaps best suited to the circumstances of the country. The unparalleled increase of the population, and progress of improvement in the state, together with a change of lands from non-resident to resident proprietors, have produced almost an entire change; and in the landed property a different state of things. Towns have grown up; the benefit accruing from vicinity to these—to navigable streams—to public highways—water privileges—and other local advantages, have produced an inequality in the value of lands on which the present system does not nor cannot operate....The defects of the present system of revenue will be examined in the following order:

- 1st. The injustice done the state from improper entries.
- 2nd. The inequality of the revenue paid by the different counties of the state.
- 3rd. The inequality of taxes on individuals.
- 4th. The difficulties occasioned by subjecting different objects to taxation for county and state purposes.

Under the first head the committee pointed out the steady transference of land from the first and second rates to third rate; in the year 1820 only 225,082 acres had been entered as first rate, while the committee estimated that at least 2,000,000 acres should have been put in that class. By reason of the improper entries, which were an inevitable result of permitting owners to list their own lands, they estimated that the state was defrauded of over \$31,000 in taxes in 1820.

As between counties there was similar inequality; for instance, the taxes levied in 1824 for state purposes in

<sup>68</sup>*Ho. J.*, 1825, pp. 153-156.



Hamilton county amounted to \$2,080, while Athens county, with less than one-thirteenth the value of real property, paid taxes to the amount of \$2,142.<sup>69</sup>

The inequality of taxes on individuals of the same county was equally marked. As all land was rated according to its fertility only, it might happen that one tract of land of 1000 acres would be worth \$2000 as agricultural, while another tract of the same size and fertility, but situated near a town or river, would be worth \$20,000, yet both be taxed exactly the same amount, say \$17.50.

The difficulties occasioned by subjecting different objects to taxation for county and not state purposes, are the creation of many unnecessary agents as collectors, assessors, and listers, producing inequality in the value of property in different townships and causing much unnecessary expense. Besides it produces discontent and unpleasant feelings between the people of the towns and country, and a great inequality in the assessment of taxes.

## II. THE GENERAL PROPERTY TAX, 1825-1851.

In accordance with the suggestions contained in this report and in the governor's message, a bill was introduced into the legislature "establishing an equitable mode of levying the taxes of this state", which was promptly enacted into law.<sup>71</sup> This act marks the beginning of the general property tax in the state of Ohio. It abolished the old system of land classification and at the same time introduced a number of new features: the taxation of all property for state purposes, instead of land alone; the valuation of real property at its true value in money; the specific enumeration of all the forms of property to be taxed; the establishment of boards of equalization, and the other machinery of the general property tax. Owing to its importance the chief features of the law deserve to be presented with some fulness.

<sup>69</sup>Hamilton county contained the prosperous town of Cincinnati, while Athens county was agricultural. Several other instances were cited.

<sup>70</sup>Rep. of Com., p. 156. Now that the policy of segregating the sources of state and local revenue has been undertaken, it is interesting to read this early argument against such a principle.

<sup>71</sup>Act of Feb. 3, 1825. Chase, *Statutes*, II, 1476.

All lands, all in-lots and out-lots in towns with the buildings thereon, and buildings in towns on lands granted by Congress for school or for religious purposes, not used for educational or religious purposes; all dwelling houses of the value of \$200 other than those on town lots; the capital of all merchants and exchange brokers employed within the state; all horses, mules, and asses, and neat cattle of three years old and upwards, except such as were exempt; and all pleasure carriages over the value of \$100, were declared to be subject to taxation. The chief dependence, it will be observed, is still real property; the amount of personal property actually valued was still small, and the list of exempted property was very large, including not only land and buildings used for religious or educational purposes, but mills and factories almost without exception.<sup>72</sup> Merchants and brokers were arranged in certain classes by the associate judges, according to their capital, and were taxed according to the class, without reference to the amount of capital actually employed by different members of the same class. Lands, town lots and buildings, dwelling houses, and carriages were to be valued on actual view at their true value in money; but horses, mules and asses were assessed with appraisement at \$40 each and neat cattle at \$8. It will be seen that the act of 1825 initiated, rather than established, the rule of valuation and of taxation according to value.

The modes of levying, assessing, and collecting the taxes were based largely upon previous practice, with such changes as experience dictated. An assessor was to be appointed in each county by the court of common pleas,<sup>73</sup> and was to be furnished with lists of land and copies of maps by the county auditor; the owner was to list all his property minutely, but the assessor was to make the true valuation, upon actual view. If the owner were absent or

<sup>72</sup>See *supra*, p. 195.

<sup>73</sup>The assessor had to take an oath of office and was put under bond of \$1000. As compensation he received 6 per cent on property assessed under \$1000; 3 per cent on properties between \$1000 and \$3000; and 2 per cent on all over \$3000.

unable to give a list, the assessor should make it out; persons refusing to give, or giving a fraudulent list, to be charged with three times the amount of the tax. The collector's duties were defined by the act of February 8, 1825: he must call at the place of residence of every person charged with a tax by November 1; if the tax were not paid by November 20, he might distrain sufficient goods and chattels to satisfy the tax, advertise, and sell them. The auditor acted as collector and was allowed mileage of eight cents a mile. County boards of equalization were established, consisting of the commissioners, auditor, and assessors of each county, with power to add to or deduct from any valuation made by the assessors. A state board of equalization was constituted of members of the legislature, chosen by itself, one from each congressional district, together with the auditor of state, which was given power to equalize the valuations as between counties.

Full as the original law was<sup>74</sup> the multitude of small amendments which appeared the next few years are eloquent witnesses of the difficulties attending the introduction of the effort to tax all property. By act of January 31, 1827, non-residents were permitted to pay their taxes to the state auditor, instead of in the county where they were situated. The proper taxation of grazing cattle offered a problem to the legislators. They were registered in no county and were evidently in no county long enough to be listed; the act of February 7, 1829, provided that they were to be recorded in the county in which the owner lived. But some of the owners lived in counties far from their cattle and some lived out of the state; and all were rather hard to find when the taxes were due, so on February 22, 1830, a further amendment made cattle, grazing in any county and belonging to a non-resident, taxable in the county where they were grazing.

After the passage of the act of 1825 a valuation of all the taxable property in the state was undertaken, which constituted the first Grand List, upon which were to be

<sup>74</sup>It contained forty sections.

assessed the necessary levies for state, county, and township purposes. The value of lands was \$39,729,411, of town lots and personal property \$18,745,096, making a total valuation of \$58,474,507. The act of 1825 fixed no period for a second general valuation. The appraisement made under it was to remain unaltered until further legislation. The county assessors, however, were required to ascertain in the spring of each year, what land had become liable to taxation during the preceding year, and what new improvements had been made by structures on lands. The value of this land and these improvements, annually ascertained by the assessors, together with that of all taxable personal property, computed according to arbitrary rates fixed by law, added annually to the equalized value of the real property, was to constitute the Grand List, and form the basis of taxation for the current year. Owing to the rapid and uneven growth in the value of property, due in large measure to the building of the canals and of the national road through certain sections of the state, the valuation of real estate established in 1826 soon revealed inequalities. Consequently a revaluation was made in 1834 and at irregular intervals thereafter until the constitution of 1851 provided for decennial valuations, beginning in 1861.<sup>75</sup>

The effect of the new law upon the revenues of the state was pronounced. Under this system new sources of revenue were tapped and the resources of the state greatly enlarged. The entrance of the state during the same year upon the policy of internal improvements committed the state to greatly increased expenditures, and necessitated large additional revenues. Owing to the fact that the whole attention of the legislature and the people during this period was absorbed by the subject of constructing the new state canals, the general property tax law received less attention than it otherwise would have. The imposition of

<sup>75</sup>Valuations of the real property in the state have been made in the years 1825, 1834, 1840, 1846, 1853, 1859, 1870, 1880, 1890, 1900, 1910. Hereafter they are to be quadrennial, dating from 1910.



heavier taxes for canal purposes moreover somewhat confused the actual effect of the general property tax as such. The following table shows the growth of the taxable property and of the revenue to the state and local governments:

GRAND DUPLICATE OF OHIO, 1826-1909.

Years.	Value of Realty.	Value of Personalty.	Total Value of Taxable Property.	State Tax.	Total. <sup>76</sup>	State Rate Mills.
1826	\$15,946,840	\$11,035,820	\$57,982,640	\$105,816	\$392,783	1.50
1831	50,627,110	15,793,666	66,420,776	240,991	615,651	1.50
1836	72,223,906	27,029,444	99,253,356	211,932	1,007,216	1.25
1841	100,851,837	27,501,820	128,353,657	642,153	1,890,405	1.75
1846	109,940,636	40,352,496	159,293,132	1,214,897	2,589,073	3.00
1851	346,341,233	115,807,387	462,148,620	1,687,392	4,957,013	3.60
1856	580,634,487	240,026,550	820,661,037	2,626,132	8,009,514	3.20
1861	634,883,552	248,966,532	892,850,084	4,056,379	11,656,814	4.55
1866	663,647,542	446,561,379	1,106,208,921	3,867,167	18,868,437	3.50
1871	1,025,619,034	476,510,937	1,502,129,971	4,350,728	22,955,388	2.90
1876	1,076,788,367	520,681,599	1,597,469,966	4,626,629	28,521,256	2.90
1881	1,101,457,383	485,750,196	1,587,207,579	4,598,057	27,606,380	2.90
1886	1,173,106,705	515,569,463	1,688,676,168	4,894,594	33,378,558	2.90
1891	1,151,038,931	556,164,445	1,707,203,376	4,181,143	35,861,610	2.75
1896	1,226,988,666	514,039,771	1,741,028,437	4,942,533	40,638,201	2.84
1901	1,377,253,183	591,026,817	1,968,280,000	5,686,249	47,980,509	2.89
1906	1,520,998,646	718,788,257	2,239,786,903	3,012,115	60,974,046	1.35
1909	1,619,462,263	770,516,086	2,389,978,349	3,214,085	71,706,371	1.35

Taxes still fell most heavily on the farmers. The items of "town lots and buildings" of "merchants' and brokers' capital", and of "pleasure carriages" formed but a small part of the total amount of taxable property in the state. In 1831 they constituted a little less than 20 per cent of the whole. The valuations of property and the taxes for that year were as follows:<sup>77</sup>

<sup>76</sup>The total includes the per capita on dogs which amounted in 1909, to \$255,774.

<sup>77</sup>Aud. rep., *Ho. J.*, 1831, p. 28.

## PROPERTY VALUATIONS.

Value of land, including houses.....	\$40,152,151
Value of town lots, including buildings.....	8,327,151
Value of horses.....	7,103,840
Value of cattle .....	2,853,824
Merchants' capital.....	3,987,235
Carriages .....	29,212
Total .....	\$62,453,423

## TAXES.

State and canal tax.....	\$ 224,484
County and school tax.....	224,267
Road tax.....	61,807
Township tax.....	44,755
Tax on lawyers and physicians.....	1,528
Total .....	\$ 577,576

The first important amendment to the new system was the result of an effort to enlarge the list of taxable property, and especially to subject intangible personalty and capital employed in manufacturing to taxation. This was done by the act of March 14, 1831, which enlarged very considerably the descriptions of taxable property, reduced the list of exemptions, and extended the application of the principle of appraisement, though it still retained in some cases the principle of arbitrary valuation by the legislature. In addition to the list of taxable property given in the act of 1825 the following objects were enumerated: "all grist, oil and saw mills; all manufactories of iron, glass, paper, clocks and nails; all distilleries, breweries and tanneries; all iron, brass and copper foundries; all money loaned at interest;<sup>78</sup> all stocks or capital invested in steamboats; all pleasure carriages with two or four wheels." As most of these items were taken from the exempt class of the earlier law, this was now reduced to very small proportions; it contained only lands and build-

<sup>78</sup>Mr. N. W. Evans is in error when he writes in his book, *A History of Taxation in Ohio*, (p. 19): "I cannot find that money was made directly taxable in Ohio, until by the Kelley law of March 2, 1846".

ings of religious,<sup>79</sup> educational, and charitable institutions, public grounds and buildings, and Congress lands for five years after purchase. Merchants dealing in domestic merchandise, with less than \$200 stock, were also exempted. The attempt to classify merchants and exchange brokers was given up; they were now to be taxed "according to the value of the stock in trade used".<sup>80</sup>

Credits were made taxable by this act for the first time in Ohio, and provision made for the careful listing of other forms of personal property. The assessor was to call upon all persons having anything mentioned in the description of taxable property for a complete list. Land and buildings, mills and factories, pleasure carriages, etc., must be valued at their true value upon actual view; stock in steamboats to be valued by the owner upon oath; "all money loaned at interest on notes, bonds, single bills or mortgages, over and above amount on which the said person pays interest shall be valued and assessed as so much capital", which must be declared by the owner upon oath. All property must be listed by March 1, and duplicates must be prepared by the assessor by June 1, during which month the county board of equalization met to correct the lists. No changes were made in the constitution or duties of these boards, or of other officers. Gradually the system of the general property tax, according to which all property is assessed and taxed under a uniform law, which had been introduced in 1825, was being enlarged and made all-embracing.

#### REVALUATIONS.

The changes introduced into the tax system by the law of 1831, which expanded the list of personal property rendered taxable, but made more manifest the inequalities in the valuation of real estate. The first appraisalment had

<sup>79</sup>The amount of land belonging to religious institutions exempted was limited to 10 acres, which was cut down to 2 acres by the act of Jan. 18, 1836.

<sup>80</sup>The act of March 21, 1840, provided for taxing the capital of exchange brokers and stock jobbers.

not been altogether satisfactory and the rapid and uneven growth of the state since had introduced new inequalities. "Complaints are made", write the governor<sup>81</sup> only five years after the passage of the law of 1825,

that errors and mistakes exist, which need correction; that the equalization have [*sic*] imperfections that usually attend first experiments, and have left upon portions of the state unequal burdens. If this is the case, the principles upon which the law originated, would seem to require, as soon as practicable a revaluation, in order that its provisions might have an equal operation.

The subject of a revaluation was also urged upon the attention of the legislatures in successive reports of the auditor. In 1834 the auditor wrote:<sup>82</sup>

The important revaluations that have taken place in the property of the state, particularly on our navigable waters, and upon the lines of our canals, which were not commenced when the value of the property of the state was first estimated, seems to require that a more equitable mode of assessment be adopted. The subject of revaluation has been twice recommended by my predecessor; and I can but respectfully second his views on this important subject of financial policy.

In response to these repeated appeals the legislature in 1834<sup>83</sup> tardily provided for a reappraisal of the value of real estate. The county commissioners were empowered to appoint one or more appraisers in each county, who "shall appraise at its fair cash value all real estate", made taxable by the act of March 14, 1831. The county commissioners, auditor, and appraisers were to constitute a special board of equalization for each county, while the commissioners, auditor, and assessors constituted a county board of equalization. The state board was comprised of the auditor of state and one person from each congressional district, who should be appointed by joint resolution of the general assembly.

As a result of the revaluation new property to the value of \$18,000,000 was added to the aggregate of taxable

<sup>81</sup>Gov. Mess., *Ho. J.*, 1830, p. 27. This executive does not seem to have been a master of either English or taxation.

<sup>82</sup>Aud. rep., in *Ho. J.*, 1834, p. 109.

<sup>83</sup>The date of this act was not given in the laws, but it was probably Feb. 24, 1834.



property of the state in one year.<sup>84</sup> The total amount of taxable property was increased over 37 per cent, and the proportion of taxes borne by the farmers was somewhat lessened. The equalized value of the lands and town lots was \$73,932,892, and the total amount of the Grand List for 1835 was \$95,927,396, of which the personalty therefore constituted about 25 per cent. In nine years the value of taxable property had increased \$37,452,889, and the proportion of the personal property had also grown. In spite of the oaths of assessors and tax-payers, however, the value of real estate as returned at this time was only about one-fourth of its true value. The rate of taxation—14 mills on the dollar in 1837—should therefore be divided by four to get a correct idea of the burden of state and local taxes upon the people.<sup>85</sup>

The complaints in relation to land subject to taxation, but which was not entered upon the duplicates, still continued. The evil was a serious one, according to the auditor:<sup>86</sup> "in many cases land became lost in the annual copying of the duplicates, and in neglect on the part of the auditor and assessors in restoring them". But worse than

<sup>84</sup>Aud. rep., *Ho. J.*, 1836, p. 174.

<sup>85</sup>Gov. Mess., *Exec. Doc.*, 1837, I, 12. The governor rather longingly compared Ohio with other states where "the state tax is merely nominal, their government being supported from income on stocks of different descriptions; and in the state of Alabama no state tax exists, the state governments being supported by an income from bank capital." For a still more exaggerated estimate as to the existence of lucrative state funds, see the report of the House Committee of Finance, January 18, 1814: "While most of the states composing this Union, are possessed of a public or state fund, to which on any exigency resort may be had, this state is utterly destitute of any. Without the imposition of taxes, many of our sister states, it is believed are enabled, not only to expend vast sums, in the construction of roads, canals and public institutions; in forming military magazines, and in procuring implements of war—but also, from the annual product of their public funds, to the support of all the expenses of their civil government. Having such a fund to resort to, international commotions and foreign invasions, to which from the nature of things all states must be exposed, and against which they should guard, will never find them destitute of resource." *Ho. J.*, 1814, p. 178.

<sup>86</sup>Aud. rep., 1839. *Exec. Doc.*, No. 2, p. 17.

official carelessness was the undervaluation of some lands, and the changes in relative values of others brought about by the rapid development of certain sections of the state, and also by the collapse in the land speculation which reached its culmination in 1837. Consequently a third valuation of the real estate in Ohio was made in 1840, and was equalized in 1841. This was provided for by the act of March 13, 1840.

This act was more carefully drawn than either of the two preceding ones, and is especially interesting for the light it throws upon the economic development of Ohio, as shown by the growth in the list of taxable properties. The court of common pleas in each county was required to appoint appraisers, who should appraise at its "fair cash value",<sup>87</sup> between April 1 and September 25, the following list of property: (1) real estate, taking into consideration its fertility, location, etc., but having no reference to the value of the improvements; (2) town-lots, in the same fashion; (3) dwelling houses, warehouses, shops, etc., over the value of \$200;<sup>88</sup> (4) grist mills, oil mills, saw mills, paper mills, fulling mills, and carding machines, over the value of \$200;<sup>88</sup> (5) all distilleries, breweries, and tanneries, and all manufactories of cloths, carpets, cotton yards, iron, glass, clocks and nails, all iron, brass, and copper foundries, over the value of \$200.<sup>88</sup> The appraiser was to make a list, place the value opposite each item, and inform the owner. For the correction of errors, the county commissioners, county auditor, and appraisers constituted a special board of equalization; the ordinary county board of equalization was made up as under the acts of 1825 and 1831. The legislature was still experimenting with the state board of equalization, which had evidently been unsatisfactory; it was now constituted of the state auditor and one person from each senatorial district, appointed

<sup>87</sup>This was evidently not done, for four years later the auditor spoke of the necessity of adopting the principle of a "cash valuation". Aud. rep., Dec. 3, 1844. In fact it never has been done, assessors' oaths to the contrary notwithstanding.

<sup>88</sup>I.e., the excess over \$200 only.

by joint resolution of both houses. The equalized valuation of the real estate was \$99,154,745, an increase over that of six years before of \$25,221,853; the grand list for 1841, embracing all assessed property, both real and personal, was \$128,353,657.

#### SALE AND REDEMPTION OF DELINQUENT LANDS.

We traced the legislation on this subject down to the year 1830. The sound policy laid down by the act of January 30, 1822, still formed the basis of the law on the matter of the redemption of lands forfeited for non-payment of taxes. This was, however, reversed by the act of March 3, 1831, which provided that all lands which had been or might be sold for taxes might be redeemed within two years. The applicant should apply to the court of common pleas of the county, give six weeks notice in a newspaper, and deposit the redemption money with the clerk, including costs and a penalty of 50 per cent. The court should then award the applicant the premises. The purchaser was to be paid for the land and also for all improvements made by him. Another act of the same year<sup>89</sup> provided "for the sale of lands forfeited to the state for non-payment of taxes" prior to January 1, 1831. The state auditor was to make a list of such lands, the county auditor to advertise and sell them at public auction to the highest bidder. After 1831, lists were to be sent out and sales made biennially. The purchaser at tax sales was to be considered as the assignee of the state. In view of the previous act of March 3, this last clause was of value only in case the former owner did not attempt to redeem his land. The title was now valid, but the position of the purchaser was again an insecure one, for he might be ousted any time within two years.

As time went on greater familiarity with the new system seems to have bred a certain amount of contempt, and also ability to evade its requirements. The old evils of non-payment of taxes and forfeiture of lands began to

<sup>89</sup> Act of March 14, 1831.

assume proportions as great as before 1825. By 1842 the delinquencies in taxes exceeded \$30,000 a year and were steadily increasing.<sup>90</sup> During the preceding session an act had been passed providing for the publication of the list of forfeited lands, and extending the time for redemption to January 1, 1843; but only a small amount was redeemed. "It is a moderate estimate", wrote the auditor,<sup>91</sup> "that one-fourth of all the lands advertised this fall, will be returned as "not sold for want of bidders", and consequently become forfeited to the state. There is no fear of a tax sale on the part of the owner and no confidence on the part of the purchaser. The rule of construction on the part of the courts, invariably sets aside these sales; for, in the present confused state of our legal enactments, it is impossible they should all be observed by the several officers charged with the assessment and collection of taxes". The following year the amount of taxes levied but uncollected amounted to one-ninth of the whole levy, and the auditor summed up the whole matter in a single sentence: "the present laws are totally inefficient".<sup>92</sup>

The act of March 12, 1845, amended the law of 1831 by providing that the former owner of land sold by the state for non-payment of taxes might redeem the same within six months from the date of sale by depositing with the county auditor the amount of the sale plus 50 per cent, and paying all expenses. In this, as in most of the legislation on the subject, every opportunity was given to the former owner to regain his land. Under such a system there could have been little inducement to buy land at tax sales. This act was still further strengthened in 1850 by an amendment providing that a person might redeem land sold for taxes by depositing the amount required by law with the county auditor, and that the auditor should give a receipt,

<sup>90</sup>Aud. rep., Dec. 6, 1842.

<sup>91</sup>*Ibid.*

<sup>92</sup>Aud. rep., Dec. 5, 1843. In his report for Dec. 3, 1844, the auditor refers again to the need of "a thorough change in the laws for the sale of lands delinquent or forfeited for taxes, so as to render them efficient in their character."



and that the deposit should "operate as an extinguishment of all rights conferred by such sale".<sup>93</sup> In the same year the auditor reported that the losses and delinquencies, and cost of collection of the taxes for the four years previous, amounted to less than 3 per cent. "No example can be found", he added, "of a more efficient and economical system."

#### THE KELLEY LAW, 1846.

The existing tax system, in spite of efforts to improve it, failed to yield sufficient revenue, but produced instead many inequalities and great dissatisfaction. Instead of using the taxing power solely for the raising of revenue, the legislature used it to favor or discourage special interests or objects. Improved lands were valued and taxed without any reference to the improvements, as if they were still in a state of nature, in order to favor the agricultural interest. The exemption of tools and machinery was designed as an encouragement to the mechanics and manufacturers of the state. Taxing banks on their profits only was held out as a bonus for foreign capital; while the exemption of property appropriated to educational and charitable purposes, was intended as an approval of those objects. Under this policy the duplicate decreased until it embraced only about one-fourth of the actual wealth of the state;<sup>94</sup> at the same time the revenue was insufficient to meet the expenditures of the state, and for ten years after 1836 there were annual deficits. Interest on the debt and current expenses were met by borrowing, probably \$1,500,000 being added to the principal of the state debt during this period. The attempt to favor every deserving object in society multiplied the pleas for further exemptions, and there was danger that the true idea of taxation would be entirely lost. In order to raise the necessary revenue various special taxes were imposed, as on banks, insurance and bridge companies, auctioneers, lawyers and physicians, etc., which however produced but little.

<sup>93</sup>Act of March 23, 1850.

<sup>94</sup>Gov. Mess. *Exec. Doc.*, 1855, I, 13.

As a result of these facts dissatisfaction with the revenue system grew serious. Complaints as to the working of the laws of 1825 and 1831 found typical expression in the indictment of the system contained in the auditor's report for 1842. In this he spoke of the great inequality between the various kinds of property, and the undue burden placed upon the land; of the injustice of the present appraisement between the farming and the town interests;<sup>95</sup> of the undue burden upon the owners of small tracts, owing to the burdensome taxes on domestic animals. But it was between real and personal property<sup>(m)</sup> that there existed the most

marked disproportion in the character of the public burdens. For instance, the county of Hamilton, with all the vast resources and wealth of the greatest city of the west, returned last year, under the head of "merchants' capital, and money at interest", \$1,364,196—whilst the county of Ross, returned the sum of \$403,799—being very nearly one-third the amount returned by the county of Hamilton. No one acquainted with the wealth and business of the two counties, will hazard the assertion, that this is anything near an adequate apportionment. The probabilities are, that in the one a strict and rigid rule has been observed, whilst in the other a very considerable amount has been suffered to escape.<sup>97</sup>

One or two feeble attempts at improvement were made. The act of January 24, 1840,<sup>98</sup> provided for subjecting canal lands of the state, which had so far escaped, to taxation. Another act, four years later,<sup>99</sup> declared leased school lands taxable for school purposes. In 1845 an effort was made to tax intangible personalty more rigidly. The act "to provide more effectually for a correct and equal assessment of Money and Capital in trade, for the purpose of

<sup>95</sup>The town property and personal property together paid only one-third of all the taxes.

<sup>96</sup>The personal property paid a little less than one-seventh of the whole taxation of the state.

<sup>97</sup>Aud. rep., Dec. 6, 1842. The city of Cincinnati in Hamilton county was the center of western trade and of the packing industry; the county had a population of over 80,000. Ross county was agricultural and its largest town was Chillicothe; the population of the entire county was only 27,500.

<sup>98</sup>38 O. L. 10.

<sup>99</sup>March 12, 1844.

Taxation",<sup>100</sup> provided that the assessors might require written statements under oath from the tax-payers; defined more carefully money and discounted evidences of debt, and merchants, bankers and brokers; and amended the act of March 14, 1831, by exempting pleasure carriages under \$40 in value, and by taxing stage-coaches. It was manifest, however, that more thoroughgoing changes would have to be introduced if the difficulties and evils of the existing system were to be remedied.

This was attempted in 1846, when the so-called Kelley act was passed,<sup>101</sup> which thoroughly revised the existing laws concerning taxation. Previous errors were thereby partially remedied, but many flagrant ones were continued from ill-advised partiality until they were swept away by the constitution of 1851.

The purpose of the new law was indicated in its title: "an act for levying Taxes on all property in this State according to its true value". The first section further stated that "all property, whether real or personal, within this state, and all moneys and credits of persons residing therein, unless exempted, shall be subject to taxation." Important additions were made to the descriptions of taxable property; personal property was defined as "every tangible thing, being the subject of ownership, whether animate or inanimate, other than money and real property", and was declared taxable together with money, credits, and real property. For instance, "other domestic animals" were added to horses and cattle, which alone had been taxed before this; and watches, pianos, and unenumerated articles were added to carriages.

Exemptions were restricted and defined with greater precision, though the list was still extremely long and generous. It comprised schools and religious buildings with twenty acres of land; graveyards; buildings of scientific, literary or benevolent societies with the land they occu-

<sup>100</sup>March 13, 1845.

<sup>101</sup>March 2, 1846. 40 O. L. 85; 2 Curwen, 1260. It was introduced by the Hon. Alfred Kelley.

piéd, moneys or credits belonging to the above and used for their specific purposes; public property of Ohio or of the United States; lands sold by the United States for five years after sale; county buildings with ten acres of land, county or township buildings for the poor; public buildings and works, state stocks; furniture, etc., of private individuals not exceeding \$100 in value; furniture, etc., of taverns or boarding houses not exceeding \$200; wearing apparel of every person, food, animals not specifically subject to taxation, farming implements, mechanics' tools up to \$150; each family, unless taxed for over \$100, might have exempt one cow, eight sheep, and four hogs.

Property was to be returned and taxed in the county or town where situated; owners were permitted to list their own property, filling out an elaborate schedule of nine heads, but from the list of moneys and credits might deduct debts owing. If the assessors demanded it, they must take an oath to verify it. Rules of appraisement were prescribed with a view to ensure a closer approximation of valuation to value; the principle of actual appraisement was for the first time applied to all objects of taxation to which, in the nature of things, it was applicable; clear directions were given for the annual listing and valuation of lands becoming taxable for the first time, of improvements, and of all personal property; a new valuation of all real property was directed, and provision was made for future valuations every sixth year. In place of the county assessors appointed by the court of common pleas, district assessors were now provided for to be appointed by the county commissioners, while in each township local assessors were to be elected. The county board of equalization was to consist of the county auditor, surveyor, commissioners, and district assessors; while the state board of equalization should consist of one person appointed by the general assembly from each senatorial district, who must have been a resident of the state ten years and of the district five years. Banks, merchants, manufacturers, and general corporations were taxed on their capital, but were permitted to deduct actual debts. A great increase took place in



"merchants' and manufacturers' stock, money, and credits"; under the earlier laws manufacturers' stock had been entirely exempted.

The effect of the new law upon the amount of property returned for taxation and the revenues of the state was at once apparent. The whole property of the state returned upon the tax list of 1844 was valued at \$136,142,666, upon which a tax of 7 mills upon the dollar for state purposes was levied, amounting to \$948,997. The duplicates of 1846, when the new law was only partially in operation as to personal property amounted to \$150,293,132, upon which a state tax of eight mills on the dollar was levied, amounting to \$1,208,562, making a difference in two years of \$259,565.<sup>102</sup> Most of the increase came from personal property, and the tax burden was thus made more equitable. Over \$100,000 of taxes were collected and paid into the treasury in 1846 upon property and capital which had never been subject to taxation before, and at the same time a reduction of about eight millions was made in the valuation of domestic animals, a class of property which had previously paid more than double its just proportion of the taxes and had imposed an unduly heavy burden upon the farmers.<sup>103</sup> The value of several classes of personal property, entered on the grand list for taxation, for the years 1844-1848, was as follows:

Years.	Domestic Animals.	Carriages, Watches and Pianos.	Enumerated and unenumerated articles.	Merchants' and Mfrs., stock, and moneys and credits.	Total amount of Personal Property on Duplicates.
1844.....	20,667,271	783,238	.....	7,550,005	29,000,514
1845.....	21,274,824	1,055,742	.....	13,556,507	35,887,073
1846.....	13,626,572	1,485,277	2,545,093	22,695,554	40,352,496
1847.....	29,105,088	3,065,464	3,864,612 <sup>104</sup>	43,841,539	79,876,703
1848.....	30,995,147	3,341,429	4,091,985 <sup>104</sup>	47,462,313	85,880,874

<sup>102</sup>Aud. rep., Dec. 11, 1847. At seven mills on the dollar, the tax would have yielded \$1,052,052, or a difference of \$103,055 in two years.

<sup>103</sup>Aud. rep., Dec. 15, 1846.

<sup>104</sup>Unenumerated articles only.

In 1847 the fourth general revaluation of the real property of the state was made, as required by the law of 1846, and amounted after equalization to \$324,495,804. This form of property now for the first time approximated, though still remotely, its actual value.<sup>105</sup> The total grand list for this year exhibited an aggregate of \$410,763,160, of which personalty contributed 20 per cent.<sup>106</sup>

As was inevitable in the case of such a comprehensive and sweeping law as the "Kelley act", amendments and corrections were necessary. In 1847 a feature was added to which the present inquisitorial system in the state may be traced. The auditor was authorized to correct false returns after notice to the tax payer, and to file in his office a statement of the facts or evidence upon which he made such correction.<sup>107</sup> A penalty of 50 per cent was imposed if taxable property were not returned. In 1848 book credits to the amount of \$200 were exempted and liquidated credits to the amount of \$100;<sup>108</sup> this was done because of the difficulties experienced in trying to reach these objects. In 1849, all lands hereafter sold by the United States in Ohio were made subject to taxation.<sup>109</sup> Since 1802 such lands had been exempt for 5 years from the date of sale

<sup>105</sup>Gov. Mess. *Exec. Doc.*, 1859, II, 32.

<sup>106</sup>The valuation and taxes before and after the revaluation under the new tax law are given for the years 1844-48 in the following table:

Years	Valuation	Rate of Tax	Amount Collected
1844.....	\$136,142,666	7 mills	\$ 942,608
1845.....	144,160,460	7 mills	980,883
1846.....	150,293,132	8 mills	1,208,562
1847.....	410,763,160	2.75 mills	1,132,398
1848.....	421,067,991	3 mills	1,240,000

Kettell, writing at this time in *Hunt's Merchant's Magazine* (21:409), stated that "the taxes have been paid with the most extraordinary punctuality". In 1848 the aggregate amount of state and local taxes in New York was \$5,295,598, or only \$2,000,000 more than those in Ohio for the same year.

<sup>107</sup>Act of Feb. 8, 1847, sec. 14.

<sup>108</sup>Act of Feb. 22, 1848.

<sup>109</sup>Act of March 8, 1849.

under the act of Congress to which Ohio assented when she entered the Union. By another act of January 26, 1847, Congress removed this restriction, and assented to their taxation from the date of their sale; Ohio accordingly took advantage of this opportunity to add these lands to the list of taxable property, as soon as they passed into private hands.

In 1851 the total sources and amounts of taxes in the state were as follows:<sup>110</sup>

PROPERTY.<sup>111</sup>

Lands .....	\$269,010,542
Towns .....	77,320,691
Personal .....	104,495,278
J't Stock Cos. ....	1,821,193
Total.....	452,657,708

TAXES.<sup>111</sup>

State tax on prop.....	\$1,621,228
State tax on jt. st. cos.....	18,030
State tax on professions .....	9,034
Co., sch., and township.....	2,117,106
Road .....	244,011
Special .....	662,422
Total .....	4,671,831

In 1851 a long act of seventy-two sections was passed,<sup>112</sup> "for the assessment of all property in this state, and for levying taxes thereon according to its true value", repealing and replacing the law of March 2, 1846. The changes introduced were few and unimportant, the chief one being an extension of the list of exemptions to include: one man's saddle and bridle, one woman's saddle and bridle, one loom not exceeding \$10 in value, firearms kept for the use of the owner, bees to the value of \$10, cash on hand to the amount of \$25, and books used by a student. This is interesting as evidencing the primitive development of

<sup>110</sup>Aud. rep., 1851, p. 5.

<sup>111</sup>Does not include bank stock or taxes thereon.

<sup>112</sup>Act of March 25, 1851.

Ohio even yet, for it is essentially the list of a pioneer farmer. Slight changes were also made in the county and state boards of equalization. As the act was not to go into force until December 1, 1851, and before that date was rendered obsolete by the new constitution, it never became operative.

### III. THE GENERAL PROPERTY TAX UNDER THE CONSTITUTION OF 1851, 1851-1910.

#### THE CONSTITUTIONAL PROVISIONS

The dissatisfaction with the partiality exhibited by the legislature towards certain forms of property and certain favored corporations was not altogether allayed by the act of 1846. The rule of equality in taxation was recognized as a general principle, but there were still many exceptions, and the feeling was strong that it must be enforced universally. It was held that the only safe way to guard the interests of the people was to withdraw all matters in which selfish interests were opposed to those of the people from legislative caprice, and to regulate them in the organic law of the state itself. Under these influences the constitutional convention met in 1850.

No change had been made in the constitution since 1802, when Ohio had entered the Union, and the fundamental instrument that had been drawn up at that time was felt to be quite inadequate to meet the very different conditions which existed a half century later. In the interval, Ohio had developed from a pioneer agricultural state to a highly diversified one, in which the growth of cities, of manufactures, corporations, and many new forms of wealth offered new problems to the legislature in the establishment of an equitable system of taxation. Banks and intangible personalty especially had escaped their due share of the tax burdens, the former because of the desire to promote them and the latter because of the difficulty of finding them, and now the effort was made to subject them both to taxation in the same proportion as other forms of



property. This was provided for in sections 2 and 3 of Article XII. Section 1 was copied verbatim from the earlier constitution of 1802. The important section of the new constitution is, however, section 2, in which the phrase "by a uniform rule" has determined the whole subsequent development of taxation in Ohio. It also proved to be a most serious obstacle to reform, when it became clear that the principles of the general property tax were inadequate, if not contradictory, to the development of an equitable system of taxation. The sections of Article XII of the constitution, pertaining to taxation, are as follows:

Section I. The levying of taxes by the poll is grievous and oppressive, therefore the general assembly shall never levy a poll tax for county or state purposes.

Section II. Laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also all real and personal property according to its true value in money; but burying grounds, public schoolhouses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose, and personal property, to an amount not exceeding in value two hundred dollars, for each individual, may, by general laws, be exempted from taxation; but all such laws shall be subject to alteration or repeal; and the value of all property, so exempted, shall, from time to time, be ascertained and published as may be directed by law.

Section III. The general assembly shall provide by law for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects or dues, of every description, without deduction, of all banks now existing or hereafter created, and all bankers, so that all property employed in banking shall always bear a burden of taxation equal to that imposed on the property of individuals.<sup>113</sup>

<sup>113</sup>The other sections of Article XII, which do not so closely relate to this subject, are as follows:

Section IV. The general assembly shall provide for raising revenue sufficient to defray the expenses of the state for each year, and also a sufficient sum to pay the interest on the state debt.

Section V. No tax shall be levied except in pursuance of law and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

Section VI. The state shall never contract any debt for purposes of internal improvement.

The principle laid down in these sections was the abrogation of all arbitrary taxation, and, in view of the previous history of taxation in the state, must be regarded as marking a distinct advance. "Man, as such, his business, occupation, and profession, are no longer subject to legislative caprice. Property is the measure and basis of taxation."<sup>114</sup> But while this marked an advance over the past, the inclusion of these rules in the constitution crystallized them and prevented any further advance, as will appear later. A few exemptions were authorized, but these were for objects of general interest, as to which there could be little or no objection.

#### THE ACT OF 1852.

The adoption of the new constitution in 1851 necessitated a complete revision of the tax laws, in order to bring their provisions into conformity with the requirements of the constitution. This was done by the comprehensive act of April 13, 1852, containing seventy-eight sections, "for the assessment and taxation of all property in this state, and for levying taxes thereon according to its true value in money." This act embodied the principles of the new constitution, and is the beginning of the attempt to tax all property under the same law by uniform methods. The general property tax now remained for some years practically the sole source of revenue; but the inadequacy and inequitableness of this system gradually led to the splitting up of this complex of taxes into parts, and the imposition of separate taxes. The following are the main provisions of this important act:<sup>115</sup>

##### Section 1 provided

that all property, whether real or personal, in this state, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of persons residing therein; the property of corporations now existing or hereafter created, and the property of all banks or banking companies,

<sup>114</sup>Gov. Mess., *Exec. Doc.*, 1855, I, 14.

<sup>115</sup>Some verbal amendments were made by the act of March 14, 1853, but otherwise the law remained practically unchanged until 1850.

now existing, or hereafter created, and of all bankers, except such as is hereinafter expressly exempted, shall be subject to taxation; and such property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, or the value thereof, shall be entered on the list of taxable property, for that purpose, in the manner prescribed by this act. Section 2 contained definitions of the various terms used: personal property was defined to include<sup>116</sup> (1) every tangible thing other than money, (2) capital, undivided profits, etc., of all companies, (3) moneys and credits. The list of exemptions (sec. 3) included school houses and colleges, burying grounds, state or United States property,<sup>117</sup> county property, poor houses, charitable institutions, fire apparatus, markets and public squares, personal property in value not over \$200.<sup>118</sup> No person was required to list uncollectible credits, or investments in companies which were required to list their property for taxation.

The next five sections provided by whom, where, and in what manner property should be listed, and did not differ materially from the rules laid down in the act of 1846.<sup>119</sup> The rules of appraisement were, however, much stricter, and provided that real estate should be valued at its true value in money, "but the price for which such real property would sell at auction, or at a forced sale, shall not be taken as the criterion of such true value"; personal property was to be valued at the usual selling price, investments at their true value, and money and credits at their full value.

Section 10 occasioned a great deal of trouble before the matter was finally adjusted; it stated that *bona fide* debts might be deducted from money and credits. Exception was taken to this on the ground that it infringed against the second section of Article XII of the constitution providing for uniform treatment of all taxable prop-

<sup>116</sup>Cf. Act. of 1846, p. 216.

<sup>117</sup>State bonds were added by Act of April 1, 1856.

<sup>118</sup>Reduced to \$50 by act of March 12, 1853.

<sup>119</sup>See p. 217.

erty. In February, 1854, the Supreme Court of Ohio upheld this view and declared this section of the act to be unconstitutional, on the ground that as no deductions for debt were permitted in the case of real estate or other tangible property, it was unreasonable to permit it in this instance. These objections were met, however, by the act of April 1, 1856, which subjected to taxation only the excess of credits over debts, and doubled the tax if an attempt were made to evade it by fraudulent conveyances.

The methods of listing and valuing the property of merchants and manufacturers, and of bankers, exchange brokers, and stock jobbers were prescribed in sections 12-18. In the case of merchants and manufacturers the average monthly value of all their property during the past year was to be taken, and in the case of bankers, brokers, and jobbers the value of all moneys, stocks, etc. Bankers (sec. 19-22) must return (1) the average amount of notes and bills discounted during the past year, and (2) the average amount of all other loans. Canal, railroad, turnpike, insurance, bridge, telegraph, and other companies "shall list for taxation, at its actual value, its real and personal property, moneys and credits, within this state." Property was to be returned to auditor of the county where it was situated, and moveable property was apportioned *pro rata* according to the value of the fixed property.

The powers and duties of township assessors were prescribed carefully (sec. 23-32): one assessor was to be elected in each township who was to assess personal property every April and May, and to return his lists to the county auditor in the latter month. District assessors (sec. 33-39) were to be elected once in six years for the purpose of assessing "from actual view" the value of all real property and buildings, of which he must make his return to the county auditor in September; each county was to be divided by the county commissioners into four districts every six years for this purpose.

The county auditor was the pivot of the whole system



(sec. 40-52) ; all returns must be sent to him and from these a duplicate or tax list of the county made out, an abstract of which he must send to the state auditor in October. In case of a refusal on the part of a tax-payer to list his property, the auditor was directed to add a 50 per cent. penalty; he also added omitted lands and corrected false statements. No penalty seems to have been imposed for the latter, but on the other hand the auditor was compelled to pay the costs of the investigation, if his suspicions were incorrect;<sup>120</sup> it is difficult to see what incentive he could have had to institute an inquiry. The duty of the county auditor as to making tax lists and duplicates, and assessing taxes, was set forth at great length (sec. 63-78). It was the duty of the state auditor to transmit every sixth year the statement of the state board of equalization to the county auditor, and to notify him each July of the rate of taxation for the state, for schools, etc. (sec. 58-59).

Three boards of equalization were provided for. The annual county board, consisting of the county commissioners and county auditor, met every May for the equalization of real<sup>121</sup> and personal property (sec. 60-62). The county board, consisting of county commissioners, auditor, surveyor, and district assessors, met every sixth year in September, to equalize the values of the real property of the state, which was to be revalued every six years (sec. 53-55). The state board of equalization, consisting of the state auditor and one member elected from each senatorial district of the state, met every sixth year in November to equalize the returns sent up from the different counties. They were forbidden, however, to reduce the aggregate

<sup>120</sup>This was changed in act of April 5, 1859, § 34, so as to place the costs upon the tax-payer, unless he was shown to be innocent of wrong intention.

<sup>121</sup>An amendment of May 1, 1852, provided that real estate was to be taxed as valued until a new revaluation was made. Only new improvements could be equalized, therefore.

valuation of the counties more than ten million dollars (sec. 56-57).

A general valuation of real property was ordered for 1853 and every sixth year thereafter. The aggregate of the equalized valuation was \$558,725,542. The personal property listed the following spring was valued at \$297,061,572, so that the grand list for 1854, including the values of lands and new improvements listed in the spring, was \$866,929,982. "The increase in seven years had been again startling," wrote Governor Chase. "It was \$456,166,822. The appraised now more closely approached the real value, and no such apparently rapid augmentation of the list could be in future expected."<sup>122</sup> The following table shows the effects of the law of 1852 and of the valuation of real property in 1852 upon the amount of property returned for taxation:

Year	Real Property		Personal Property	Total
	In towns	Not in towns		
1852 .....	\$81,558,374	\$273,378,773	\$152,644,703	\$507,581,911
1853 .....	\$5,321,192	278,169,709	229,905,947	503,396,848

In 1852, real estate paid 70 per cent. of all the taxes, but in 1853 this proportion had been reduced to 62 per cent., owing to the large amount of personal property subjected to taxation. As the largest increase is shown in the schedules of personal property it will be of interest to take up some of the more important items in detail and note the changes. This is shown in the table on page 228.

The large increase in domestic animals—78 per cent.—was probably partly due to an undervaluation of this species of property in 1852. Pleasure carriages now for the first time included wheel vehicles of every variety, which accounts for the very large increase in the second item. The value of property pertaining to merchandise and manufacturing did not at all correspond to the actual amount invested in these businesses, but was slowly increasing. The greatest relative increase was shown in the

<sup>122</sup>Gov. Mess., *Exec. Doc.*, 1850, II, 32.

## Personal Property Returned for Taxation, 1852-3 (in millions)

Year	Cattle	Pianos, watches, and pleasure carriages	Personal property pertaining to		Boatage or private landing	Money and credits, including bank accounts	Bonds and Stocks of		All other personal property not included in the enumerated items	Joint stock companies	
			Merchandise	Manufacturing			United States (1)	State of Ohio (2)			
1852 .....	33.7	3.5	18.1	5.5	1.2	41.8	incl. in (3)	incl. in (3)	.9	14.3	.5
1853 .....	57.8	10.0	21.5	6.0	7.8	54.0	.2	.2	.6	24.8	.7

property returned by brokers and private bankers, who were being fairly taxed for almost the first time.

As the system of taxation was improved and a larger proportion of the taxable property in the state was returned, complaints began to be made of the increasing burden of high taxes.<sup>123</sup> In 1855 the taxes levied in Ohio were as follows:

Total state taxes .....	\$2,754,808
Total county taxes .....	2,762,305
Total township, city, and special taxes.....	2,943,618

It will be seen that the state taxes made up barely one-third of the total, so that complaints were more justly directed against those levied by the counties. In addition to the direct taxes there were numerous fees paid to county, township, and other local officers, of which no account was kept that was accessible to the public. There had been a notable increase of the taxes since 1846, when the general property tax had been fully introduced, and here again

<sup>123</sup>Aud. rep., 1854; Gov. Mess., 1855, p. 10; Gov. Mess., 1859, *Exec. Doc.*, II, 93; Rep. Com'r. of Stat., 1859, *Exec. Doc.* I, 799.

the greatest gain was shown by the local governments. Between 1846 and 1859 the state taxes increased 165 per cent. and the local taxes 329 per cent. The same fact was illustrated by the respective increases of the tax rates: Rate of state tax in 1847 was 2.8 mills; in 1859, 3.5 mills. Rate of local tax in 1847 was 3.9 mills; in 1859 7.7 mills.

Perhaps because of the burdens imposed, an act of the latter year<sup>124</sup> provided for the semi-annual collection of taxes, the tax-payer being given the privilege of paying one-half his taxes on December 20 and the other half on June 20. In the same year the sixth general valuation of real property took place, and the returns showed an increase in the valuation since 1853, of about 15 per cent. The value of the realty was raised from \$584,114.004 in 1859 to \$639,894,311 in 1860. The personalty showed a decline, however, from \$251,795,937 to \$248,408,290, so that the aggregate gain on the grand list was only about \$42,000,000. The state taxes for 1860 amounted to \$3,503,713.

#### THE ACT OF 1859.

The act of April 5, 1859,<sup>125</sup> was simply a codification of previous laws on the subject of taxation, and brought together in one comprehensive act the matter contained in many scattered acts, especially those concerning bankers, brokers, etc. Little new matter was added to previous legislation, though in some cases more careful definitions were framed, or errors discovered in the act of 1852 were corrected. Credits were defined as the "excess of legal claims over bona fide debts", thus permitting the deduction of debts from personalty. The amount of personal property exempted for each individual was limited to \$50.

Corporations and joint stock companies were to be taxed like individuals, except banking corporations for which special provision was made (sec. 60-68). Banks were to return annually in May (1) the average amount of notes and bills discounted, (2) the average amount of

<sup>124</sup>Act of April 2, 1859. *O. L.*, 1859, p. 101.

<sup>125</sup>*O. L.*, 1859, pp. 175-218; 2 Swan and Critchfield, 1438.



all moneys, etc., loaned, invested, or otherwise used with a view to profit, less the amount of specie reserve on hand. Taxes should be paid to the state treasurer and by him distributed to the counties and townships in which the banks were situated. A new feature was that regarding the "non-resident personal tax" (sec. 85-91), which seems to indicate both successful efforts to evade the taxes on personalty, and attempts on the part of legislators and officials to check the evasion. The county treasurers were to notify one another when a tax-payer moved out of one county into another in the state, and back taxes were to be collected, if any were due, by the second county treasurer; such taxes were to be distributed to the counties to which they belonged.

On one point the legislators did not seem able to make up their minds, and that was as to the frequency of re-valuations of real property in the state. Frequent appraisements were expensive, but if too long a time elapsed between valuations then injustice was done. The law of 1852 had provided for sexennial valuations and this was repeated in the act of 1859, which fixed the next one for 1864. By the act of April 7, 1863, the date was postponed to 1868 and the valuations were made decennial; another postponement to 1869 was made by the act of May 8, 1868. These various changes necessitated other changes in the provisions governing the meetings of the boards of equalization. The duties and composition of these boards were unchanged.<sup>126</sup> The powers and duties of the county auditor, which had expanded enormously with the development of the system were carefully codified in a long act, containing fifty-seven sections, passed April 4, 1859.<sup>127</sup> He was to be elected for two years; indeed all the officials

<sup>126</sup>An amendment of April 18, 1874 (*O. L.*, p. 92; 2 Saylor 1645) provided that the county boards of equalization should not reduce the value of the real property in any county below the aggregate value as fixed by the state board, nor below its aggregate value on the duplicate of the preceding year, excepting that in oil counties where oil was exhausted the aggregate value might be reduced.

<sup>127</sup>*O. L.*, 1859, pp. 128, ff.

named in these acts were now elective instead of appointive.

The laws respecting delinquent taxes, methods of enforcement and penalties, were gradually being developed, as experience showed the weak points. In 1857<sup>128</sup> it was provided that if one-half the tax charged against lands should not be paid by December 26, it should be charged on the duplicate with 30 per cent. penalty and interest; if this were not paid, together with remaining half of the tax, by June 20, then the lands were to be placed on the delinquent list. At the March meeting of the county commissioners the delinquent list for five years previous was to be read, and they were to try to collect the unpaid taxes with interest.<sup>129</sup> Lands forfeited for non-payment of taxes were to be advertised and sold by the county treasurer on the third Tuesday in January. Lands sold for taxes at delinquent sales might be redeemed in two years, but in that case the former owner must pay for all improvements.<sup>130</sup>

The new constitution had now been in force for almost a decade and its principles had been presumably carried out in two comprehensive tax laws. Had the standards of equity, uniformity, and no discrimination set up by the constitution been carried out by legislation or by administrative practice? The question was an inevitable one. It was raised and answered by Governor Salmon P. Chase in his message of December, 1860.<sup>131</sup>

<sup>128</sup>55 *O. L.*, 65. Later the penalty was reduced to 20 per cent.

<sup>129</sup>Act of May 1, 1854, 52 *O. L.*, 112. This act made it the duty of each county treasurer to find out the new address of every delinquent tax payer who moved away, and to send a statement of the taxes assessed and not paid to the county treasurer of the county to which the taxpayer moved. This treasurer should then collect all such taxes. If the taxpayer moved after the delivery of the tax duplicate, a penalty of 25 per cent was to be added. Delinquent taxes so collected were to be distributed to the proper counties.

<sup>130</sup>Act of April 5, 1859, sec. 92-109. Amended by act of April 11, 1865 (Swan and Sayler, 781), and of 1877 (74 *O. L.* 69) which provided that the former owner must reimburse the purchaser for all taxes, penalties, interest, etc., paid by him to the state.

<sup>131</sup>*Exec. Doc.*, 1861, I, 348.

It is argued by some that a successful effort is yet to be made to adapt our tax laws to the constitution; that by the present law different kinds of property are not treated by a uniform rule, but are valued by different methods and at dissimilar periods; that the obvious meaning of words in the constitution has been perverted by legislative definitions contrary to their true meaning, by reason of which some classes of property are twice taxed, and other classes not taxed at all; that the exemptions provided for in the constitution have been overstepped; that no man is now taxed either according to the value of what he owns or what he is worth.

But in his inaugural address a few weeks later the governor<sup>132</sup> designated the system of taxation in force "as perfect and equitable as can well be devised," . . . "if faithfully executed." The taxation of real property at its true value in money he thought generally well attained,<sup>133</sup> but that a large amount of invisible property, particularly money and credits, escaped taxation. He recommended that "more severe penalties, certain of enforcement, be provided for failures to give in to the assessors this species of property." This easy method of meeting the evil was simplified still further by the auditor in his report for 1864. After calling attention to the fact that a large amount of property escaped taxation, he concluded:<sup>134</sup> "The remedy for this evil is very easy of attainment: *require every man to swear* simply, that he has listed *all his property*."

#### THE CIVIL WAR PERIOD.

With the outbreak of the Civil War new problems presented themselves. There was less discussion of method and more of means. Under the stress of necessity and the

<sup>132</sup>*Exec. Doc.*, 1861, I, 484.

<sup>133</sup>A comparison of the census tables of taxable property in Ohio, which undertook to give the *real* value, shows that the assessed values come very close to these (Rep. Com'r. of Stat. *Exec. Doc.*, 1862, I, 460):

	Assessed value	Real value
1850 .....	\$433,872,632	\$ 504,726,120
1860 .....	959,867,101	1,193,898,422
Increase .....	525,994,469	689,172,302

<sup>134</sup>*Exec. Doc.*, 1864, I, 224. Italics in original.

impulse of patriotism large sums were raised by means of taxation without a murmur of complaint. A system that displayed many weak points when every effort was being made to evade taxes, easily yielded large revenues when the tax-payers responded fairly to the calls upon them. Additional funds were raised to defray the expenditures caused by the war, not by the slow imposition of new taxes, as in the case of the federal government, but simply by raising the rate of the general property tax. Criticism of the tax system died out of the official reports and messages absolutely; on the other hand much satisfaction and pride were expressed in both the system and the results.

The valuations of property and the taxes levied in Ohio during the four years of the war are shown in the following table (in millions):

Year	Value of Realty	Value of Personalty	Total Value of Taxable Property	State Tax	Total of all Property Taxes (State and Local)
1860 .....	\$640	\$248	\$888	\$3.5	\$10.8
1861 .....	635	249	883	4.0	11.6
1862 .....	646	244	880	4.1	10.1
1863 .....	650	287	930	4.7	11.7
1864 .....	655	351	1,007	5.3	16.6
1865 .....	661	409	1,070	5.7	20.9

It will be noticed that while the state taxes were increasing, the aggregate taxes, during the first three years of the war at least, did not show a corresponding growth. The reason for this was the introduction of considerable economies in ordinary civil expenditures. Thus, while the state taxes for war purposes increased from 312 thousand dollars in 1861 to 844 thousand in 1862, there was a saving of half a million each in state taxes for other purposes and in county taxes and over a million dollars in city, town, and special taxes, reducing the aggregate burden on the people by one and one-half million dollars. Not until 1864 and 1865 was there any marked increase in the total of all taxes, and this was due almost entirely to the expan-



sion of local taxation and expenditures. Part of this was attributable to the war itself, as in the case of levies for the payment of bounties to soldiers, and indirectly because of the higher prices brought about by the over-issue of depreciated paper money; but the larger part was due to the growth of cities and towns and the increase of expenditures for various purposes of town comforts and conveniences.<sup>135</sup> The war itself then can scarcely be said to have entailed any considerable extra burden of taxation upon the people of Ohio, except in so far as it involved a diversion of expenditures from productive into unproductive channels, and prevented the immediate satisfaction of legitimate local or state wants.

The readiness with which Ohio responded to the call of the federal government for financial support was well illustrated by the action of the state in regard to the direct tax laid upon the states by act of Congress of August 5, 1861. The total tax was \$20,000,000, and Ohio's quota, apportioned according to the number of her representatives in Congress, amounted to \$1,567,089. It was provided that any state might assume the tax as a state obligation, otherwise it would be assessed and collected by federal officials; if paid before July 1, 1862, it was subject to a deduction of 15 per cent., and of 10 per cent. if paid before October 1. Ohio assumed the tax and imposed an additional state tax of  $1\frac{3}{4}$  mills, to be added to the June levy.<sup>136</sup> From this source \$380,000 in money was paid to the Treasury Department at Washington, and over \$1,000,000 in accounts and vouchers for moneys expended by the state for the military service of the United States, exceeding the state's quota and securing for it the discount of 15 per cent.

One of the most interesting features of this period was the promptness with which all taxes were paid, and the absence of complaints or attempts at evasion. The delinquencies declined to less than one per cent.; in 1863 they

<sup>135</sup>Rep. Com'r. of Stat. *Exec. Doc.*, 1867, I, 948.

<sup>136</sup>Act of April 16, 1862. *O. L.*, p. 52.

were  $\frac{7}{8}$  of one per cent., in 1862 they were 1 per cent.<sup>137</sup> The delinquencies and costs of collection together amounted in 1860 to  $3\frac{1}{2}$  per cent.; in 1863 they declined to a little over 1 per cent.; they were 2 per cent in 1865 and 1866, after which the good effects of patriotism seems to have worn off, so far as evasion of taxes was concerned. For 1867 delinquencies and cost of collection were extraordinarily light and amounted to only 2.8 per cent.; for the following years they were somewhat greater, amounting in 1868 to 4.5 per cent., 1871 to 4.73 per cent., and for 1872 to 4.63 per cent.,<sup>138</sup> which was probably about normal.

An interesting table was compiled by the commissioner of statistics in 1864,<sup>139</sup> to show the distribution of the taxable property among the different interests. Agriculture was shown to be the dominant industry and to bear over two-thirds of the taxes. It is herewith reproduced:

Class	Taxable Property	Percent
Agriculture .....	\$620,927,117	68
Town houses, lots, gas, street railways, etc.	168,751,157	19
Manufacturers' and mechanics' capital....	12,460,455	2
Merchants' and brokers' capital (excl. money) .....	103,611,345	11
Miscellaneous <sup>140</sup> (incl. money).....	110,132,365	Pro-rated among others

The appointment of a tax commission to revise the tax laws was urged by the auditor in several successive reports,<sup>141</sup> and was finally authorized by act of March 18, 1867. They were to report what changes were necessary to systematize and make consistent the existing statutes on taxation. The committee of finance was appointed to this task and in the following session brought in eight bills for enactment. These were "somewhat considered" by the

<sup>137</sup>Aud. rep., *Exec. Doc.*, 1863, I, 54.

<sup>138</sup>Aud. rep., 1864, p. 220; 1866, p. 132; 1867, p. 148; 1869, p. 373; 1871, p. 198; 1872, p. 351.

<sup>139</sup>8th an. rep. *Exec. Doc.*, 1864, I, 741.

<sup>140</sup>Includes such items as furniture, carriages, watches, etc.

<sup>141</sup>E. g. Aud. rep. in *Exec. Doc.*, 1866, I, 134.

legislature,<sup>142</sup> but only one of them was passed. This was the act of May 8, 1868, which codified the legislation regarding the division of counties into tax districts, the election of district assessors, returns to the county auditor, county and state board of equalization, the annual county board, and special boards in cities. No changes in principle were introduced.

During the same session an act was passed requiring the assessors to ascertain and report all bonds, federal and state, and legal tender notes exempt from taxation, held by Ohio tax-payers.<sup>143</sup> The returns showed \$21,907,795 of such exempt property held in the state, or about 5 per cent. of the value of chattel property listed for taxation. This evidently seemed to the legislature worth taxing, for in the following year bonds, treasury notes, and fractional currency of the United States, held or owned by individuals, companies or corporations in the state, were made subject to taxation.<sup>144</sup> A statement of their amount was to be made to the assessor under oath, and they were to be taxed locally. This law was later declared unconstitutional.

The valuation of property on the grand duplicate was increased \$32,545,858 in 1867 over that of the previous year. This the governor attributed to "the increased care and accuracy in the administration of the law, and the growing familiarity of local boards of equalization with their duties."<sup>145</sup>

A re-appraisement of the real property in the state was made and equalized in 1870, as a result of which the valuation was increased from \$697,018,203 in 1869 to \$1,025,619,034 in 1871. At the same time there was a slight increase in the valuation of personalty from \$459,762,252 to \$476,510,937. The next valuation was fixed

<sup>142</sup>Gov. Mess., 1868, p. 4. No report of this commission was printed, as it was only a statutory commission.

<sup>143</sup>Act of April 3, 1868. Rep. of Sec. of State. *Exec. Doc.*, 1868, I, 339.

<sup>144</sup>Act of May 7, 1869. 3 Saylor 2216.

<sup>145</sup>*Exec. Doc.*, 1867, I, 148.

for 1880.<sup>146</sup> The state tax for 1871 was \$4350,728; local taxes meanwhile had grown to over \$18,600,000 or five-sixths of the total amount raised in the state. So great was the increase in this direction that the governor thought it "wise to restrict, by legislative enactment, the power of minor political organizations to create debts and impose taxes."<sup>147</sup>

For twenty years after the passage of the act of 1859 there was practically no new tax legislation, except changes in the rates. Indeed so completely did the legislature keep their hands off this subject that in the index of the sessions laws passed from 1869 to 1876 there were no references to taxes or taxation, except to municipal and local laws.<sup>148</sup> A general revision of the statutes of Ohio was made in 1878, and all the general statutes on the subject of taxation were consolidated and revised. They formed Title XIII, chapters 1-8 of the revised statutes of 1880.

#### THE ACT OF 1878.<sup>149</sup>

There was little that was new in the act of 1878, and no changes in the essential principles of taxation that had been in practice since 1846. Chapter 1 dealt with definitions and property to be taxed in almost the same language as previous laws.<sup>150</sup> Chapter 2 covered the listing of personal property and was the longest. Foreign insurance companies were added to the list of corporations required to make returns of their taxable property (sec. 7-13). A more elaborate and careful procedure had been developed

<sup>146</sup>Act of March 2, 1871. *O. L.* p. 33; 2 Saylor 1644.

<sup>147</sup>Gov. Mess., Jan. 5, 1847. *Exec. Doc.*, 1873, II, 218. This was done by act of May 11, 1878, ch. 5. "It has been this enormous weight of local taxation that has pressed so heavily on the people." *Aud. rep. Exec. Doc.*, 1870, I, 317.

<sup>148</sup>*O. L.*, 1876, App., p. 32 *et seq.* In the index of laws of 1872 the words did not occur at all.

<sup>149</sup>Act of May 11, 1878. *O. L.*, 1878, pp. 430-507.

<sup>150</sup>Soldiers' monuments were added to the list of exempt property. The amount of personal property exempted was raised from \$50 to \$100.



for banks: incorporated banks were to be taxed on their shares in the city where the bank was located, their real estate being taxed where situated (sec. 29-36); unincorporated banks and bankers were required to make out a list of the average amount of their (1) notes discounted, (2) accounts receivable, (3) cash, (4) stocks, bonds, etc., (5) real estate, (6) deposits, (7) accounts payable, exclusive of deposits, (8) capital paid in. The auditor was to subtract items 6-8 from items 1-5, and they were to be taxed on the balance (sec. 25-28). Railroads were to be appraised and assessed by the county auditors (sec. 37-43). Foreign express and telegraph companies were required to list through their agents the annual amount of their gross receipts; but express companies were permitted to deduct from this the amount paid railroads for transportation (sec. 44-47). Chapter 3 contained the legislation concerning the assessing of real estate.

Seven boards of equalization were now provided for: (ch. 4) the annual county board, consisting of the county commissioners and auditor, to equalize individual assessments; the annual city board, with similar duties, consisting of the county auditor and six citizens of the city appointed by the council; the annual state board for banks, consisting of the state auditor, treasurer, and attorney general, to equalize the value of the shares of incorporated banks; the annual state board for railroads, consisting of the same officials, with similar duties for the railroads of the state; the decennial county board, consisting of the auditor, surveyor, and county commissioners, to equalize the real property in the county; the decennial city board, consisting of the county auditor and six citizens appointed by the council, with similar duties for the city; and the decennial state board, consisting of as many members as the state senate and elected from the senatorial districts, with similar duties for the state. These last three were to meet in 1880 and every tenth year thereafter. In the multiplicity of these boards is eloquent testimony to the growing complexity of the tax system, and

of the need of different treatment of different forms of property, in spite of the constitutional requirement of uniformity.

The levying of taxes was treated in chapter 5. The rates for state taxes were to be fixed by the legislature, those for county taxes by the county commissioners, and those for townships by the township trustees. County and township rates were both limited according to the amount of taxable property, decreasing as the amount increased. But in the case of townships the trustees were empowered to levy an additional road tax, payable in labor. Large county improvements must be submitted to the voters of the county before being made. One section (sec. 12-13) was reminiscent of the early days of internal improvements and of the reckless subsidies and loans of credit that were made at that time. This authorized any county, city, or township that had subscribed to the stock of any railroad company and had issued its bonds, within five years before the maturity of those bonds, if the stock of the railroad company should be less than 75, to levy a tax of not over one mill to balance the discount on the stock; the proceeds of such tax to constitute a sinking fund for the payment of the bonds.

In the subject of collection of taxes (ch. 6) there was one pregnant section (sec. 18), which was destined to open the way for the development of a unique method of collecting back taxes, the so-called tax inquisitor system. This provided that a duplicate of the unpaid personal property tax was to be given by the county auditor to the county treasurer, after the semi-annual settlement in August; the treasurer should then collect the delinquent taxes and be allowed five per cent. on all he collected. From this to the employment of unofficial assistants to aid him and to ferret out new and undeclared personalty was but a step, which was taken by the act of April 14, 1880.<sup>151</sup> If false returns were made or evasions attempted, the county

<sup>151</sup> 77 O. L. 205.

auditor was authorized to add 50 per cent. penalty and to go back four years in the collection of the evaded taxes; "but as to former years, no penalty shall be added, and only simple taxes shall be claimed." Chapters 7 and 8 dealt with the subjects of delinquent and forfeited lands, their sale and redemption, but made no changes in former procedure.

#### THE OHIO TAX INQUISITOR LAW.<sup>152</sup>

The act of 1880, just referred to, had legalized the employment by county commissioners of private individuals to detect property improperly omitted from the tax duplicates. The county commissioners of Hamilton county had been employing men for this purpose before 1880, paying them a commission on the amount of taxes collected through information furnished by them, but the commissions thus paid had been borne wholly by the county though the state shared in the increased taxes. By this law the state was made to bear part of the expense.<sup>153</sup> In 1885 authority was given to the counties of Hamilton, Cuyahoga, Lucas, and Franklin, containing the four largest cities in the state (Cincinnati, Cleveland, Toledo, and Columbus), to employ tax inquisitors and to compel the state to share in the expense.<sup>154</sup> Finally, in 1888, the power to employ tax inquisitors was extended to all the counties in the state.<sup>155</sup> The compensation of such persons was limited to 20 per cent. of the amount of taxes actually paid in as a result of their researches. Tax inquisitors were bonded at \$1000, and provision was made for the punishment of assessors or auditors who wilfully omitted property from the tax duplicate: they were held guilty of a

<sup>152</sup>A good account of the workings of this system has been given by T. N. Carver, in *Economic Studies of the American Economic Association* (1898), vol. III, No. 3; also by E. A. Angell, in *Yale Review*, vol. 5, p. 350.

<sup>153</sup>Constitutionality of act was upheld by Supreme Court in *State ex. rel. v. Coppellar*. 39 O. S. 214.

<sup>154</sup>Act of April 23, 1885. 82 O. L. 152. Constitutionality upheld in *State v. Crites*, 48 O. S. 142.

<sup>155</sup>Act of April 10, 1888. 85 O. L., p. 170.

misdemeanor and fined not exceeding \$200 or imprisoned in county jail not exceeding sixty days.

Under these various laws there grew up in Ohio a unique system of ferreting out omitted property by the employment of private detectives. A further law provided that the county auditor might go back five years in correcting false returns and add a 50 per cent. penalty for each year in which the taxes were evaded.<sup>156</sup> Other legislation had given the auditor almost drastic power to investigate, to summon witnesses, administer oaths, take testimony, etc., which taken in connection with the inquisitor features would seem to have made the concealment of personal property almost impossible. In actual practice, however, the system did not work out as well as was anticipated. As his position was a political one the auditor often showed himself unwilling to co-operate with the tax inquisitors in placing the full amount of the omitted property on the duplicate.<sup>157</sup>

The results hardly seemed to justify the system, for the increase in the assessed valuation of personal property was slight after 1880, and in those forms of property in which the services of the inquisitors would be most valuable, namely credits and intangible personalty, there was either no increase or a slight decline. The amount of omitted property placed on the tax duplicate by the tax inquisitors ranged from \$12,000,000 in 1896 to \$99,000,000 in 1902.<sup>158</sup> The system was never adopted by all the eighty-eight counties in the state, the largest number making use of it at one time being fifty-five in 1893; since that date it has been less generally used. In 1904 the system was abolished.

The following account will serve to show fairly clearly the workings of the system.<sup>159</sup>

<sup>156</sup> Act of April 14, 1886. 83 O. L. 82. Held to be constitutional in *Sturges v. Carter*, 114 U. S. Sup. Ct. 512.

<sup>157</sup> See a notable case cited by Carver, *op. cit.*, p. 184.

<sup>158</sup> Statistics prior to 1893 are not available.

<sup>159</sup> *Cleveland Plain Dealer*, Dec. 17, 1903.



Tax Inquisitor Morganthaler and his local representatives have stirred up a veritable tempest among investors by securing information of local investments from the stock books of a number of the big corporations. From these stock books Morganthaler has learned of large blocks of stock held in the names of well known people and not returned for taxation. Some of the blocks of stock he found are very large and had been held by the owners for several years.

Morganthaler is following up his clews with great speed and is presenting to the holders of the stock bills for delinquent taxes and penalties for forgetting to make proper returns. One wholesale merchant has settled with the inquisitor for \$3,000 for a large block of United States Steel, preferred, which he had held since the company was organized. Other local financiers have had calls from the tax man and have negotiations for settlement under way.

The feature of most interest to the local holders who are receiving calls from the tax man is the manner in which he gets the information from the stock books of the corporation. Morganthaler is very specific in the bills he presents to the forgetful men. He details the date of purchase, number of shares, length of time owned, if it has been sold, and all other information to show that he has done his work with fidelity. When he presents the bill with the detailed information to the owners there is nothing to be done but talk settlement and that is what the men are doing.

A few months ago Morganthaler secured the records from the stock book of the Detroit United Railway and caught several Clevelanders who owned that stock and had forgotten to return it for taxation. That stock was widely held in the city and Morganthaler located every one of the forgetful owners and the back taxes were compromised quietly.

There is a rumor in circulation that Morganthaler has much other information of similar nature and that many other holders of this widely scattered stock will be called upon in Cleveland and other Ohio cities and settlement demanded. It is difficult to discuss the facts when the tax man comes armed with dates and the number of shares and settlements are usually made privately. It is understood Morganthaler is bending the greater part of his efforts along this line and has uncovered a great amount of stock in various corporations held by residents of Ohio that escaped the memory of the individuals when they made their tax returns.

#### THE TAX COMMISSION OF 1893.

After 1878 there were practically no new tax laws passed for about fifteen years; the codification of the statutes in 1878<sup>160</sup> had added little. In the meantime, how-

<sup>160</sup>Act of May 11, 1878.

ever, corporations were developing, especially in the fields of transportation and transmission companies, and inequalities in the general property tax were becoming more marked and causing greater dissatisfaction. Governor Foraker in 1886 complained that in the counties of Lucas and Cuyahoga (in which were situated the cities of Toledo and Cleveland) it had become habitual for the assessors, county auditors, and boards of equalization to value personalty for taxation at 60 per cent. of its true value, while in other parts of the state the appraisement was much higher.<sup>161</sup> Two years later he again referred to the gross inequalities that existed in the valuation of property for taxation:<sup>162</sup> "personal property to the extent of hundreds of millions of dollars in value escapes taxation entirely. . . . There should be no delay in providing for the taxation of foreign corporations on their gross receipts, or in some equivalent way, the better listing of mortgages and other securities, and the more equitable taxing of private banks."

As a result of the dissatisfaction with the existing system, and especially with the constitutional requirement of uniformity in the taxation of all forms of property, and the insufficiency of income for state needs, the legislature in 1893 took two decisive steps to improve conditions. By joint resolution they drew up a rather ambiguous amendment to Article XII, section 2, of the constitution, to be submitted to the people at the next election.<sup>163</sup> This provided for "taxing rights, privileges, franchises, and other such matters as the general assembly may direct." This proposed amendment was rejected at the polls by the people, perhaps not undeservedly. The other important step toward reform lay in the appointment of a bipartisan committee of four to investigate the subject of taxation.<sup>164</sup> A statutory commission had been appointed for this purpose

<sup>161</sup>Gov. Mess. *Exec. Doc.*, 1885, I, 419.

<sup>162</sup>Gov. Mess. *Exec. Doc.*, 1887, I, xi.

<sup>163</sup>Joint resolution, April 22, 1893. *O. L.*, 1893, p. 384.

<sup>164</sup>Joint resolution, April 24, 1893. *O. L.*, 1893, p. 385.

in 1883, and an appropriation of \$1630 had been made for their expenses,<sup>165</sup> but they had confined themselves to recommending some slight changes in the administration of the general property tax. The tax commission of 1893, however, went energetically to work, and made their report on December 23 of the same year.

The first topic discussed in this report was the power of the general assembly over the subject of taxation, under the existing constitution, and the conclusion reached was that while that instrument prohibited the taxation of persons, it left the taxation of business wholly to the discretion of the legislature; as to property, it must be taxed by uniform rule according to its true value in money. The existing methods of taxing property and business in Ohio were then examined and the conclusion reached that "in the main the Ohio system of taxation will compare favorably with those of other states." The third and most important problem, whose consideration made up the bulk of the report, was then stated as follows:

How shall property now being excessively taxed be relieved, and property now escaping taxation be charged, so as to equalize the burdens of taxation, and increase the revenues of the state?

In answer to the first part of this question the commission established the fact that "all but a mere bagatelle" of the intangible property was escaping taxation; that real estate was bearing a disproportionate share of taxation, paying from 14 to 25 per cent. of its gross rentals, while railroads paid only 5 to 12 per cent. of their net earnings. Banks were contributing their fair share. But intangible property as a whole paid less than 10 per cent. of the taxes of the state, while the tax inquisitor law produced not over 2 per cent. of the taxes collected; they recommended the abolition of the latter system.

As to remedies the commission recommended a change in the administration of the general property tax, by concentrating the duties of the various state boards of equalization in one single state board of assessment and equaliza-

<sup>165</sup> Act of April 16, 1883.

tion, and of the various local boards in one county board of assessment and equalization, and by providing for quinquennial instead of decennial revaluations of real estate.

### **They also recommended**

the equalization of taxation and increase of revenue, by laying taxes on business, with an especial view to reaching intangible property, and corporations and enterprises, whose ability to contribute to the expenses of the government cannot be justly measured by a tax upon their property; and to this end, the following taxes are suggested: (a) an annual franchise tax on the corporations and enterprises indicated, including railroads; (b) a privilege tax on transfers of property by deed, mortgage or will, and upon appeals, writs of error, etc.; (c) an extension of the collateral inheritance tax to classes exempted by the present law, and an increase of the tax; (d) an extension of the corporate organization tax to foreign corporations doing business in this state.<sup>166</sup>

In conclusion they urged rigid economy in public expenditure.

As a result of these recommendations and for the purpose of obtaining larger revenues, the legislature imposed a tax on the traffic in cigarettes, and increased the share of the state in the liquor tax. They also extended the inheritance tax to direct inheritances, and imposed a franchise tax on domestic and foreign corporations, and excise taxes on express, foreign insurance, and sleeping car companies. A little later, for purposes of regulation rather than revenue they established boards of pharmacy and medical registration and examination, a fish commission, an examiner of stationary engines, etc., for the support of which fees were exacted. The situation in 1895 was summed up by Governor McKinley in his annual message, from which we may quote at considerable length:<sup>167</sup>

The state's revenues are inadequate to the needs of the state, and some legislation should be had which will insure a permanent increase of these revenues. This question is brought up at each recurring session of the General Assembly, and has long been a matter of much vexation. . . . While full relief has not yet been found, yet some advance has been made in the direction of larger revenues, without adding any further burdens to real or other property already bearing its full share of taxation. New subjects of taxation, which have heretofore escaped their just

<sup>166</sup>Rep., p. 70.

<sup>167</sup>Gov. Mess. *Exec. Doc.*, 1895, I, 5-6.



share of the public burdens, are slowly, but with certainty, being placed upon the tax duplicate.

The Massie law of February 12, 1889, levies a franchise tax of  $\frac{1}{10}$  per cent. upon the capital stock of Ohio companies, for the privilege of becoming incorporated or consolidated under the laws of Ohio, the fee to be paid to the Secretary of State. It yields about \$100,000 yearly.

The Hard law of May 16, 1894, requires every foreign corporation having a plant in Ohio to pay a tax of  $\frac{1}{10}$  per cent. upon the proportion of its capital stock represented by property in this state. The object was to place foreign corporations on the same footing as domestic corporations. It yields about \$20,000 yearly. The Carpenter law of April 25, 1893, requires all foreign corporations to file a statement with the Secretary of State, designating a person upon whom service can be made, and to pay a fee. It yields about \$5,000 yearly.

Franchise tax on foreign insurance companies. By an amendment of April, 1893, foreign insurance companies were required to pay a tax to counties only upon their net premium receipts, while the difference between the amount thus paid into the counties, and  $2\frac{1}{2}$  per cent. on their gross premium receipts, was made payable to the superintendent of insurance for the privilege of doing business in Ohio. It was further enforced by the amendment of March 27, 1894. It yields about \$40,000 yearly.

Excise tax on express companies for the privilege of doing business in Ohio of 2 per cent. on gross receipts from Ohio business. These are to be ascertained by a state board, consisting of the auditor, treasurer, and attorney general.

The Griffin law of May 24, 1894, levying an excise tax of 1 per cent. on the value of that proportion of the capital stock of sleeping car companies represented by cars owned and used in Ohio, ascertained by a state board, consisting of the auditor, treasurer, and attorney general. This was the first tax on sleeping car companies as such in Ohio.

The inheritance tax law of April 20, 1894, levying a direct inheritance tax, has been held invalid by the Supreme Court, because of the inequality of its graded features and large exemption. At the same time the power of the state to raise revenue by taxing successions has been maintained.

#### ABOLITION OF THE GENERAL PROPERTY TAX FOR STATE PURPOSES.<sup>168</sup>

For some years no further changes were made in the tax laws, as the new sources of revenue thus opened up

<sup>168</sup>Much of what follows has been published in the *American Economic Review*, Sept., 1911, under the title "Recent Tax Reforms in Ohio." Thanks are due Prof. D. R. Dewey, the editor, for permission to reprint.

grew steadily more lucrative. In 1901, as the result of the decennial revaluation of real estate, there was added to the total valuation of real and personal property upon the grand duplicate the sum of \$135,000,000. The total amount of money paid into the state treasury for the year ending November 15, 1901, was about \$8,100,000; of this amount \$5,400,000, or two-thirds, was raised by levies upon real and personal property, and the remaining third came from other sources of revenue. The relief to the agricultural interests of the state was so marked that the extension of this principle was earnestly advocated by Governor Nash. He urged that the complete segregation of state and local taxation be sought, and that the revenues for state purposes be secured from corporation, inheritance, and excise taxes, leaving to the local governments the general property tax.

The advantages of such a system [he said<sup>169</sup>] are many. The tangible property will be relieved of a portion of the burden which it now bears. There will then be no occasion for the state board of equalization. No injustice will arise because the property in one county is valued more highly for the purpose of taxation than the property in another. The injustice arising from such erroneous valuation comes only when state taxes are to be paid. Then taxes upon property will be levied by the county, municipality, and township officers. Taxation will become local, and if the officers responsible for it are derelict in the discharge of their duties, they live among the people whom they wrong and who can easily get rid of them and elect other officers who will wisely perform these duties.

By the act of April 29, 1902, the general assembly partially followed this advice, and omitted to make any levy for the general revenue fund upon the real and personal property returned for taxation. The levy for common school purposes was reduced from 1 mill to .95 mill; and for sinking fund purposes from .30 to .18 mills.<sup>170</sup> In his next message Governor Nash voiced the belief that the legislature ought "eventually to wipe out this tax alto-

<sup>169</sup>Gov. Mess., 1902, p. 11.

<sup>170</sup>The old levies, together with one of 1.4 mills for general revenue purposes, had been imposed by the law of April 18, 1892, which was now repealed.

gether." Governor Pattison in 1906 advocated the same policy:

The law as far as possible, should provide that the necessary revenue for the expenses of the state shall be raised in some manner without calling upon the respective counties for any portion thereof.<sup>171</sup>

The loss of revenues from the general property tax was made good by the passage of the "Cole law", which raised the excise tax on public service corporations from  $1\frac{1}{2}$  to 1 per cent. of their gross earnings, and the "Willis law", which imposed a tax of  $\frac{1}{10}$  of 1 per cent. on domestic and foreign corporations, other than those operating a public service. The transition was moreover made easy by the existence of a large balance in the general revenue fund, amounting on November 15, 1902, to almost \$3,000,000, of which \$459,000 was due to the payment by the federal government of money expended by the state during the Civil War.

The problem of reforming the existing system of taxation was by no means settled, however, and continued to be a topic of discussion in legislative and administrative circles, as well as among the people at large. In November, 1905, an amendment was passed to Article XII, section 2, of the constitution, exempting from taxation Ohio state, county, township, municipal, and school bonds. As the principle of stoppage at the source had never been applied to the taxation of any of these bonds, only a part of them had been subjected to taxation, but the rate of interest on all had to be high enough to cover the risk of their being taxed. By exempting them definitely, the rate of interest which it was necessary for the local government to pay upon money borrowed by them was reduced by nearly the average rate of taxation formerly levied upon the bonds.

#### THE TAX COMMISSION OF 1906.

Dissatisfaction with the tax system next found expression in the action of various business and professional asso-

<sup>171</sup>Gov. Mess., 1906, p. 13.

ciations, and in other less formal expressions of opinion, which demanded reform. Accordingly the governor, in September, 1906, appointed a commission of five men "to investigate the tax laws of this state and to make recommendations for their improvement." They submitted their report on January 10, 1908. After outlining the existing tax system of Ohio under the heads of the general property tax and special excises and privilege taxes, the report enumerated the evils of the system. These were classified under five heads: inequalities between the owners of real and personal property, among the owners of real estate, among the owners of personal property, between owners of real and personal property and owners of corporate property, and finally inequalities among corporations.

The most important feature of the report was its recommendations, which were five in number. First and foremost came a proposed amendment of the constitution, giving the legislature a freer hand to deal with such subjects as franchises, stocks, bonds, cash, mortgages, and other intangible property, and abolishing the rule of uniformity, which had proved such a stumbling block in the way of tax reform. The proposed amendment simply gave to the general assembly, in general terms, power to establish and maintain an equitable system for raising state and local revenue. It may classify the subjects of taxation so far as their differences justify the same in order to secure a just return from each. The legislature was to be authorized to classify property for purposes of taxation, but was not required to do so.

The other recommendations of the commission were as follows:<sup>172</sup> (2) the establishment of a state tax board of three members, to be appointed by the governor, to administer all laws for the collection of state revenues and to make such recommendations upon the general subject of taxation as investigation and experience may from time to time suggest; (3) a more frequent appraisement of real estate; (4) the abolishment of the present state levy upon real and personal property and the complete separation of

<sup>172</sup>Rep., pp. 39-44.



state and local revenues at the earliest practicable date; (5) that authority be given to local communities to secure publicity in taxation in such manner as they shall deem best.

#### RECENT TAX REFORMS.

The recommendations of the commission were favorably received, and within two years four out of the five suggestions were practically adopted. We may take these up in order. It had been found impossible, after repeated trials, to secure an amendment to the constitution permitting the classification of property for purposes of taxation, even the one proposed by the commission being rejected at the polls, so it was suggested that a constitutional convention be called to overhaul the instrument as a whole. Each of the political parties ratified this suggestion, and their action found expression on the official ballot, so that a straight party vote would be a vote in favor of calling a convention.<sup>173</sup> Probably as a result of this fact, the popular vote on November 8, 1910, was overwhelmingly in favor of calling the convention, being 693,263 for and 67,718 against the proposition. After this vote doubt arose as to whether the convention should be held legally in 1911 or 1912, the corporate interests, which feared that their tax burdens might be increased under a new constitution, contending for the latter date. When it meets there is little doubt that the provisions of the constitution relating to taxation and finance will be carefully revised, and that the rule of uniformity in taxation will be changed.

The second recommendation of the commission to be acted upon was that of the more frequent appraisalment of real estate. Between 1825, when the system of the general property tax was first introduced into Ohio, and 1859, the valuations of real property had been made roughly about every six years; from the latter date down to 1910 valuations had been decennial.<sup>174</sup> This system was adopted when

<sup>173</sup>Act of April 26, 1910. 101 *O. L.* 169. Popular vote on convention was provided for by act of March 16, 1909. 100 *O. L.* 18.

<sup>174</sup>See above, p. 205, note 75.

the real estate of Ohio consisted almost wholly of farm lands, and had been retained by this state after it was given up by every other state in the Union. Gross injustice was often done by the rapid changes in the value of real estate, which local boards were unable to correct during the interval.<sup>175</sup> As a compromise between the expense of annual appraisements and the injustice of decennial ones, the commission recommended quadrennial appraisements. By act of March 12, 1909,<sup>176</sup> this was provided for, to begin in 1910 and continue every fourth year thereafter.

The most important and far-reaching legislation, however, consisted in the appointment of a permanent tax commission.<sup>177</sup> By this act Ohio took rank among the progressive states in matters relating to taxation, and opened the way for further reforms. The commission consists of three members, appointed by the governor for a term of three years, at a salary of \$5,000 per annum. Their most important function, for the present at least, is to consist in the assessment of railroads, express, telegraph, and telephone companies, sleeping car, pipe line, and equipment companies, and other public utilities, which had previously been assessed by a number of special boards. For instance, railroads had been assessed by the county auditors, and the others by various state boards; the taxes on public service corporations had been collected by the auditor; the excise tax on other corporations had been collected by the secretary of state, and other taxes had been paid to the state treasurer. All the machinery for the assessment of these various taxes was now concentrated

<sup>175</sup>By the decision of the supreme court of Ohio (*Davies, Auditor, v. The National Land and Investment Co.*, 76 *O. S.* 407) it was held that after the completion of a decennial appraisalment of real estate, and its equalization, it was not competent for a local board to re-value or increase the taxable appraisalment of real estate, or even to correct gross inequalities caused by the growth of a city. The case thus decided involved property in Toledo, whose value had increased millions of dollars.

<sup>176</sup>100 *O. L.* 81. Amended by act of Jan. 31, 1910. 101 *O. L.* 7.

<sup>177</sup>Act of May 10, 1910. 101 *O. L.* 399.

in the hands of the tax commission, while all taxes were to be paid directly to the state treasurer.

With respect to the assessment of real and personal property of individuals, power is given the commission to order a reassessment of the same in any taxing district, whenever in their judgment it was not assessed at its true value in money. A new appraiser or board of appraisers is to be appointed for this purpose. Taken in conjunction with the quadrennial assessment of real estate it is now possible for the first time to correct inequalities in assessment as soon as they appear; the law therefore marks a great improvement in this regard. The commission also received power to raise or lower the assessed value of any real or personal property, and to require county auditors to place upon the tax duplicate any omitted property.

The tax commission act of 1910 was revised during the last session of the legislature, and was considerably improved by a rearrangement of the sections and by clearer definitions.<sup>178</sup> At the same time the powers of the commission over corporations were strengthened and a determined effort made to force them to pay their taxes. The treasurer of state is directed to send to the tax commission, instead of to the attorney general as formerly, a list of the delinquent public utilities and corporations, and the commission is then to direct the attorney general to institute actions in the courts if it wishes. In general the commission is made the final authority in all matters of administration relating to taxation.

In January, 1911, the tax commission made its first report, covering a period of about six months. During this period their main efforts had been directed to the work of assessing the various public utility corporations, which had previously been assessed by various special boards. While a considerable increase was made in the valuation of practically all corporations—the only decreases being in the case of water transportation and natural gas companies—the true value was in no case reached, since the personal

<sup>178</sup>Act of May 31, 1911. (House Bill No. 491).

and real property of individuals was still so greatly undervalued. There is yet room for a large growth of revenues from these sources when the tax commission shall have carried its work to completion.

Another important part of the work of the commission was that of supervising the appraisement of real property in the state. Although the work was not finished at the time of making their report, they stated that a conscientious effort was being made to have the real property of the state assessed at its true value. In only two cases was it found necessary to order the reappraisement of a taxing district. As there are over 2500 taxing districts in the state, this speaks well for the fairness of the valuation. Previously the assessed valuation had been about fifty per cent. of the true valuation. A table published by the tax commission of 1906 of the sale value and the tax value of real estate properties transferred in four counties during the year 1906 showed that the assessed value was respectively 43, 50, 36, and 37 per cent. of the sale price,<sup>179</sup> and this they regarded as typical. In the case of the smallest properties, worth from \$350 to \$750, the assessed value was generally higher than the sale price, showing an added discrimination against the small property owner. Some of the larger properties were assessed as low as 10.8 per cent. of their sale price.

Whether this effort to secure the true cash valuation of property for taxing purposes, as the law has always provided, succeeds or not, the movement is in the right direction. The main evil in Ohio in this connection arises mainly in the resulting inequality between individuals, or between individuals and corporations, rather than between different counties, for the rate of state taxation, which is distributed according to the local assessments, is very small—only .134 cents per \$100. The tax commission of 1906 recommended the abolishment of this levy and the complete separation of state and local revenues, but this was the only recommendation made by them upon which the legislature

<sup>179</sup>Rep., p. 56.



has not acted favorably up to the present time. As all the revenue thus collected by the state is for school purposes and is turned back to the counties after its collection, there is really no tax for state purposes upon general property in Ohio today. But since the school taxes are collected according to wealth and redistributed according to the number of children of school age, the effect of the discontinuance of a state levy for this purpose would be to deprive some of the poorer districts of needed funds for education. It hardly seems likely, therefore, that this advice will be followed, nor desirable that it should be.

Finally, the act provided for removing all penalties upon property not listed for taxation prior to 1911, and starting fresh with January first of this year. In order to induce tax-payers to declare the whole amount of their property, it was enacted that no back taxes or penalties should be assessed upon any omitted property, if such property were declared for taxation in 1910. But beginning with January 1, 1911, back taxes and penalties should be collected from all omitted property, for five years preceding the date when it might be discovered. It was hoped that this exemption and the limitation of the tax rate<sup>180</sup> would lead to the declaration of much property that had hitherto escaped taxation. The slate had been wiped clean of accumulated penalties in much the same fashion in 1826, when the general property tax was first introduced;<sup>181</sup> and now that the administration of the tax was to be made so much more strict, it seemed equitable to allow immunity under certain conditions to those who had been evading taxation, if they would give evidence of a disposition to deal fairly in the future.

In addition to the tax reforms thus far described certain other improvements in matters of finance should be mentioned, as they are part of the movement for financial reform which has characterized both legislation and admin-

<sup>180</sup>For the act limiting the tax rate see *American Economic Review*, Dec., 1911, p. 517.

<sup>181</sup>See above, p. 199.

istration in Ohio for the past two or three years. One important advance consisted in the passage of depository laws, to secure for the state and local governments interest on public moneys on deposit. It had been the universal practice for public officers who were entrusted with public funds to retain the interest on such funds, which was paid by the banks in which they were deposited. The interest thus received, which amounted in some cases to thousands of dollars a year, was by general consent regarded as one of the emoluments pertaining to that particular political office. In 1894 a county depository law was passed, but as it was permissive only it was without effect. A decade later, in 1904, a state and school depository law was enacted, and finally, in 1910, a township law; at the same time all the laws were made mandatory.<sup>182</sup> Under these laws public moneys must be deposited in banks, after competitive bidding if possible, at not less than 2 per cent., and the depository banks must give satisfactory security, usually bonds of Ohio or some minor civil division of the state. The interest paid by the banks on public deposits runs from 2 to 4½ per cent., with an average of about 3¼ per cent. During the year ending Nov. 15, 1909, the amount received by the state government from this source was \$155,384.

The most important part of the work, however, has lain not so much in the enactment of new legislation as in the enforcement and better administration of the existing laws. This is well illustrated in the work of the tax commission. Without invoking any powers other than those conferred upon the old boards of appraisement they succeeded in greatly increasing the assessment of property, both individual and corporate. Under the old system, for instance, the county auditors had assessed the property of the railroads, and for the last four or five years the state board of equalization had accepted their findings, inadequate as they were, without a change. Within six months of taking office, the tax commission was able to

<sup>182</sup>101 *O. L.* 238, 243, 358.

increase their assessments 100 per cent. Probably the greatest gain in these reforms, aside from the increased interest and moral awakening of the people of Ohio, lies in the establishment of the permanent tax commission, for this will be able to direct the agencies of further tax reform, to report abuses, and to suggest improvements. On this point we may fairly indorse the words of Governor Harmon in his recent message to the legislature :

I am more firmly convinced than ever that the cost of the Tax Commission provided with all necessary help is the most productive investment the state can make. But apart from returns in actual revenue, however great these may be, the moral effect of the assurance that fairness and justice will rule with respect to all tax-payers alike is an asset in good government whose value cannot be expressed in figures.

## CHAPTER V

### HISTORY AND TAXATION OF BANKS AND BANKING IN OHIO.

#### HISTORY AND TAXATION OF BANKS TO 1819.

To understand the tax legislation with regard to banks in Ohio, it will be necessary at the same time to sketch briefly a history of banking; much of the banking legislation is intelligible only in the light of existing conditions, and a thorough knowledge of these is necessary to a full appreciation of the variable, and often harsh actions of the legislature.

Under the territorial government private associations did what little banking business was called for under the primitive conditions of a frontier settlement. The first bank incorporated by the state was the Miami Exporting Company, of Cincinnati, in April, 1803, which was given "banking privileges"; these privileges were not exercised until 1807, when it abandoned its exporting business and devoted itself solely to banking. Other unchartered associations seem to have existed, for in 1808 the Bank of Marietta asked for, and was given, a charter until 1818. The capital was limited to \$600,000, in addition to which the state might subscribe another \$100,000; the state was to have one year's credit in paying for these shares, but was to receive profits as if paid for. There was no clause providing for specie payment and no penalty for suspension.<sup>1</sup> The Banks of Chillicothe and Steubenville were chartered the same year with the same provisions. In 1812 and 1813 three other banks were incorporated.

During the session of 1813-1814, a bill was introduced in the legislature to tax bank stock, in accordance with a report of the Joint Committee on Finance,<sup>2</sup> but failed of passage. The act of February 8, 1815, was the first law

<sup>1</sup>Sumner, *History of Banking in the U. S.*, p. 50.

<sup>2</sup>*Ho. J.*, 1814, p. 142.



levying a tax on banks; this provided for an annual tax of 4 per cent. on dividends. If any bank failed to report, the auditor was to levy 1 per cent. on the nominal capital of the bank. The sheriff was authorized to present the bill of the auditor to the bank, and, in case it was not paid immediately, with 4 per cent. additional for the sheriff's fees, to levy on the specie and notes. If he could not obtain enough of these, he was to seize any other property of the bank, advertise, and sell it.

After the conclusion of the War of 1812, a great increase of population took place in Ohio, as the result of renewed immigration into that state. "The numerous banks, which had been chartered before and during the war, and which continued to spring into existence in every part of the state, supplied an abundant circulating medium."<sup>3</sup> Taking advantage of the opportunity, unauthorized persons began to issue notes, and against these Ohio now began a war "which she carried on longer and more vigorously, because apparently with less success, than any other state."<sup>4</sup>

By the act of February 8, 1815, persons signing or issuing notes without proper authority were punished by imprisonment for one year and a fine not exceeding \$5000. All contracts with persons or firms issuing such notes were to be void. By the act of January 27, 1816, passed in the next session, the crusade against unauthorized banking was directed against persons acting as agents of any bank of issue chartered by the laws of another state. A fine of \$1000 was prescribed for each offense, the use of the courts and the processes of justice were forbidden to all such agencies, and any one interested in such a bank was made personally liable to any note-holder. These acts are interesting and important as showing that the subsequent attack upon the Second Bank of the United States was not isolated or sudden, but was rather part of a long bank-war.

<sup>3</sup>Chase, *Ohio Statutes*, I, 42.

<sup>4</sup>Sumner, *op. cit.*, p. 91.

During the same session the question as to how the state could best derive a revenue from the banks engaged the attention of the legislature. In response to a letter from the governor the auditor drew up a plan by which the banks should give to the state 20 per cent. of their capital stock, to be paid for partly in cash and partly out of the profits from the stock, in return for which the state would extend their charters, make their notes a legal tender, and agree to charter no other banks. As the charters of all the banks in the state, except one, would expire in 1818, the auditor thought they would accede to the plan; and if the one bank should prove recalcitrant, it might be taxed in the same proportion. Both governor and auditor dwelt upon the advantages of having a state fund which—the latter thought—would probably yield “an annual dividend of 80,000 dollars or more, and will probably ever afterwards supercede the necessity of resorting to taxation for the ordinary expenses of government.”<sup>5</sup>

This plan was presented to the legislature as an alternative to a scheme for taxing the banks, and was carried through by the bank party, which was largely in the majority. An amendment taxing the banks 5 per cent. on their dividends was rejected 43 to 12, as was another, requiring banks to redeem their notes in specie, 43 to 11. The plan outlined above was then enacted into law,<sup>6</sup> by a vote of 42 to 13. This act created six new banks, each with a capital of \$100,000, chartered seven unincorporated banks with which the state had previously been at war, and extended the charters of those already in existence from 1818 to 1843. By this law, each bank was required to set off to the state, one twenty-fifth of its capital stock. On this amount of stock the state was to receive regular dividends, and in the final winding up of the concerns of each institution, was to be entitled to one twenty-fifth of its

<sup>5</sup>*Ho. J.*, 1816, pp. 85-91. Cf. also rep. of Ho. Com. of Finance, Jan. 18, 1814 (*Ho. J.*, 1814, pp. 178-180), which had already suggested the establishment of a similar fund.

<sup>6</sup>Act of Feb. 23, 1816. *Ho. J.*, 1816, 335, ff.

property. No provision was made to pay for the state stock; except that each bank was required to set apart, annually, such a part of its profits, as would at the expiration of its charter, produce a sum adequate to that purpose.<sup>7</sup> The consideration for this bonus was the extension of the charters of all the banks enumerated in the act, and of all others in the state which should accept the terms offered by it, to the year 1843; exemption from all state taxation; and a sort of implied promise that no other banks would be created during their charters. Some of the banks accepted and some refused this offer; but the whole scheme failed with the failure or refusal to comply with its provisions by the banks which originally concurred in it.<sup>8</sup>

#### THE ATTEMPT TO TAX THE BANK OF THE UNITED STATES.<sup>9</sup>

After the expiration of the charter of the First Bank of the United States in 1811 there was a great increase in the number of state banks in Ohio, as in the West generally. In Ohio there were four banks in 1811; by 1815 the number had grown to twelve, and in the following year nine additional banks were incorporated.<sup>10</sup> The charters of these early banks contained no clauses for specie pay-

<sup>7</sup>It is obvious that in effect this amounted to an annual tax of one per cent. on the capital stock of the banks, which was to accumulate.

<sup>8</sup>Chase, *Ohio Statutes*, I, 42. For the later history of these banks, see below, p. 271.

<sup>9</sup>For a detailed study of this subject, see my article on "Taxation of the Second Bank of the United States by Ohio", in *American Historical Review*, Jan., 1912. For permission to use part of this material in this place thanks are due the editor, Dr. J. F. Jameson.

<sup>10</sup>A. Gallatin, *Considerations on the Currency and Banking Systems of the United States* (Philadelphia, 1833), p. 103. From the tables given there it is possible to construct a table showing the number and capital of banks in Ohio at different periods, as follows:

Date.	No. of Banks.	Total Capital.
1811.....	4	\$ 895,000
1815.....	12	1,434,719
1816.....	21	2,061,927
1820.....	20	1,797,463
1830.....	11	1,454,386

ments, and no penalty for suspension, while the power of note issue was apparently unrestricted. In 1817 nine additional banks were incorporated, in which for the first time restrictions were imposed.

The numerous banks supplied an abundant circulating medium, far in excess of the real needs of the community. The loose credit system of selling public lands also led to bank note inflation on the part of the local bankers; and this was increased after the suspension of specie payments in 1814, by the action of the federal government in accepting state bank notes in payment of the public lands and other public dues. After the War of 1812, moreover, the western country experienced a "boom" in which Ohio fully shared. "Speculation, stimulated by every incentive, ran into wild and extravagant excesses. Improvements of every kind, under its strong propulsion, advanced with wonderful rapidity."<sup>11</sup> It was a period of inflation, of speculation, and of rising prices, which must ultimately terminate in a financial crash. Things were rapidly tending to this state, when two branches of the Bank of the United States, which had been chartered by Congress in 1816, were established at Cincinnati and Chillicothe. These branches issued their notes in Ohio to a very large amount, and as they were convertible they displaced the issues of the local banks. Consequently there soon developed strong opposition to the Bank in Ohio, and also in other states.

Nine months' experience with the Cincinnati branch seems to have persuaded the legislature that it was detrimental to the success of the local banks,<sup>12</sup> and that, as it was not paying taxes while they were, it occupied a favored position. Accordingly a committee was appointed in the House in December, 1817, to take into consideration the propriety and expediency of taxing the branches of the Bank of the United States situated in Ohio. A report by them against the expediency of levying such a tax was

<sup>11</sup>Chase, *Ohio Statutes*, I, 42.

<sup>12</sup>*Ho. J.*, 1819, p. 400.



reversed by the House, 37-22.<sup>13</sup> A substitute for their report, asserting the right of the state to levy such a tax and the expediency of doing it immediately was voted in January by large majorities.<sup>14</sup> To carry out these proposals a bill was introduced "to levy a tax on the capital of the subscribers to the Bank of the United States, employed in banking within this state". After being read a third time, further consideration was postponed until the following December.

In his message to the legislature at the opening of the session of 1818-19, the governor discussed the banking situation at length, and referred as follows to the Bank of the United States:<sup>15</sup> "Since the incorporation of the Bank of the U. S., and since the passage of the present law of this state against unauthorized banking companies, that institution has established, without asking leave, two agencies . . . whose course of proceeding, the banks loudly complain, cramps the operations, and diminishes the profits of the latter, as well as impairs the state revenues arising from these sources. . . . But whether the branches remain among us, of right, or by permission, and while the state banks are subjected to the imposition of taxes, or an equivalent, there appears no evident reason why those branches should be exempt. Their exemption would be a partiality, unjust to the local banks. . . ."

The House Committee, finally, to whom the matter was referred at the previous session for report, recommended "the propriety of providing by law, that if the branches established within this state shall remain here and transact business, beyond a certain day, a tax shall be assessed and collected of \$50,000 annually upon each branch."<sup>16</sup> In accordance with this recommendation a

<sup>13</sup>*Ho. J.*, 1817-1818, pp. 144-146.

<sup>14</sup>*Ibid.*, pp. 307-315.

<sup>15</sup>Gov. Mess., *Ho. J.*, 1818-19, pp. 92, 94.

<sup>16</sup>*Ho. J.*, 1818-19, p. 409.

bill was introduced into the legislature and was finally enacted into law on February 8, 1819.

Whereas the president and directors of the Bank of the U. S. have established two offices of discount and deposit in this State, at which they transact banking business, by loaning money and issuing bills, and by trading in notes and bills; and whereas it is just and necessary that such unlawful banking, while continued should be subject to the payment of a tax for the support of the government

It was provided that if any of these associations continued in business after September 1, they should be taxed, the Bank of the U. S. \$50,000 per annum for each office, and every other company \$10,000. On September 15 of each year the auditor was to assess these taxes against the companies, and to make out his warrant to the agent whom he should appoint to collect the tax. In case of default, the agent was authorized to levy on the goods of the bank or its credit; he could seize the specie or notes, searching the bank for them. The officers of the bank might be put to oath to disclose where the funds were, or they might be summoned to court and examined, a refusal to answer constituting contempt. Debtors to the bank must pay the state until the amount of the tax was reached. The sum collected was to be paid by the agent to the auditor and by him to the treasurer. The agent was to have, as his remuneration, two per cent. of the amount collected in specie or notes; five per cent. of goods taken in execution; and ten per cent., if further proceedings were required.

Similar taxes had already been laid on the Bank of the U. S. in five other states, namely, Maryland (\$15,000), Tennessee (\$50,000), Georgia (31¼ cents on \$100 capital), North Carolina (\$5,000), and Kentucky (\$60,000), while the constitution of Indiana in 1816 and of Illinois in 1818 prohibited the establishment of any but state banks within their boundaries. The subject was also debated in the legislatures of Virginia, South Carolina, and New York.<sup>17</sup> As to their constitutional right to levy such a

<sup>17</sup>See Catterall, *The Second Bank of the U. S.*, pp. 64-65.

tax, the majority of the Ohio legislature seem not to have entertained any doubt.<sup>18</sup>

The year 1819 was marked by a crisis, the first in the United States. Prices fell disastrously, many banks failed and the suspension of specie payments was general. Corn was selling at 10 and wheat at 20 cents a bushel (specie) in some parts of Kentucky,<sup>19</sup> and at Cincinnati the following year similar prices prevailed.<sup>20</sup> At such prices farmers could not pay their debts and defaulted on their loans, while the banks did not redeem their notes. Ohio enacted stringent laws in 1819 and 1820 to compel the banks to meet their obligations, though not very effectively. Neighboring states, however, yielded to the pressure and passed various relief laws for the benefit of debtors and of banks which had suspended specie payments. Thus Tennessee passed a stay law in 1819, but it was declared unconstitutional in 1821. Illinois, in January, 1821, suspended executions for debt until November of the same year. Missouri established a state loan office in 1821.<sup>21</sup>

Owing to the adverse balance of trade and the drain of specie from the western country by the Bank of the United States, it was difficult to keep sufficient specie in the state. "It is established," wrote Niles in June,<sup>22</sup> "that 800,000 dollars in specie have been drawn from Ohio within the last twelve months, for the Bank of the United States." The Bank consequently was compelled to foreclose its mortgages and realize upon them. "As a consequence of the transfer of real estate, the Bank owned a large part of Cincinnati: hotels, coffee-houses, warehouses, stores, stables, iron foundries, residences, vacant lots."<sup>23</sup> The effect of this upon the former owners of these valuable properties may easily be imagined. There was,

<sup>18</sup>Chase, *Ohio Statutes*, I, 43.

<sup>19</sup>Niles *Register*, Sept. 2, 1820.

<sup>20</sup>Corn sold at 10 cents, wheat at from 12½ to 25 cents a bushel; whisky was dull at 15 cents a gallon. *U. S. Gazette*, May 23, June 23, 1821.

<sup>21</sup>For further details see Sumner, *op. cit.*, p. 119, ff.

<sup>22</sup>Niles' *Register*, June 26, 1819, XVI, 298.

<sup>23</sup>Catterall, *op. cit.*, p. 67.

moreover, a general spirit of hostility to the bank in the West, where it was regarded as an intruder, often against the constitution and statutes of a state, possessed of superior privileges, paying no taxes, and acting as mentor to the local banks.

In the meantime, while the feeling of hostility to the bank was rising higher, the case of *McCulloch v. Maryland* was decided on March 7, 1819, to the effect that the states were debarred by the federal Constitution from levying a tax upon a bank chartered by Congress.<sup>24</sup> The Ohio law, however, directing the auditor of state to levy and collect the tax of \$50,000 on each branch of the Bank of the U. S. that should continue to transact business within the state after September 1, remained unrepealed. This law the auditor considered imperative on himself, in which opinion he was upheld by the governor, and that it was his duty under the law to execute its provisions, unless enjoined by proper authority.<sup>25</sup> The auditor was really placed in an embarrassing predicament, but held that as a state officer his first duty was to carry out the mandates of the state laws. On September 11 he was served with a notice that application would be made to enjoin the proceedings under the tax law. On the morning of September 15 the auditor was further served with a copy of a petition in chancery, praying that he be enjoined from charging the bank with the proposed tax, and also with a subpoena from the same court to appear to answer the petition on the first Monday of the following January. As no one of these documents constituted an injunction upon his proceedings under the law, the auditor issued his warrant to John L. Harper, for the collection of the tax.

Before delivering this warrant, however, the auditor submitted the various papers to the Secretary of State, and asked him to secure legal advice as to whether they did operate as an injunction. In reply he received the written

<sup>24</sup>Wheaton, 316. The text of the decision is given in full in Niles, XVI, 68.

<sup>25</sup>Aud. rep., Dec. 9, 1819. *Ho. J.*, 1820, p. 38.



opinion of several lawyers "that it did not appear that there was any order of court allowing an injunction, or any writ of injunction, or indeed any document whereby the defendant can be charged with notice of the contents of the petition."<sup>26</sup> Accordingly he delivered the warrant to Harper with instructions to go ahead. The latter went to the branch at Chillicothe on September 17, and upon the cashier's refusal to pay the tax, jumped over the counter, "and with force and violence . . . did take from the said office money and notes to the amount of upwards of the sum of one hundred and twenty thousand dollars."<sup>27</sup> Five days later the amount in excess of \$100,000 was restored to the bank. The money thus taken was paid into the Bank of Chillicothe after banking hours, and left there overnight. The next day it was taken to Columbus, and \$98,000 was deposited in the Franklin Bank of that city to the credit of H. M. Curry, the treasurer of state, the other \$2,000 being retained by Harper as his fee.

Meanwhile the injunction asked for had been served upon Osborn, the auditor, on September 18, in which he was directed not to collect the tax, nor pay it out if collected; he was also requested by the bank to return the money collected. This he refused to do, as the matter had now passed out of his control.<sup>28</sup> Soon after this Harper and Orr, one of the latter's assistants, were arrested at the suit of the Bank in an action at law for the recovery of the money taken by them. Bail was required to double the amount of money collected, and an action for *habeas corpus* having failed, they remained in prison until the following January, when they were released by the federal circuit court on the ground that the arrest was irregular.<sup>29</sup> On September 22 an injunction was granted by Judge

<sup>26</sup>*Ibid.*, p. 40.

<sup>27</sup>Petition of the Bank of the U. S., etc., in *Ho. J.*, 1820-21, p. 53. The exact sum taken was \$120,425, of which \$7,930 was a treasury deposit belonging to the U. S.

<sup>28</sup>Aud. rep. *Ho. J.*, 1820, p. 41.

<sup>29</sup>For an account of the irregularity in their arrest, see McMaster, *History of the People of the U. S.*, IV, 499.

C. W. Byrd, the United States District Judge, restraining the auditor, treasurer, and the depository bank from making any disposition of the moneys collected as a tax from the Bank.<sup>30</sup>

By an arrangement of the counsel of both parties a decree was entered, ordering the treasurer to restore the amount of the tax together with interest on the specie part, but providing that the interest, the \$2,000 withheld by Harper as his fee, and the costs be appealed for final decision to the Supreme Court of the United States. A perpetual injunction was also granted against the collection of any tax in future under the tax law of Ohio. Not until 1824 did the Supreme Court finally hand down their decision.

During the session of 1820-21 the legislature debated the banking situation and the attitude of the Bank of the United States at length. A very hostile report was made by a committee of the House,<sup>31</sup> to whom was referred the whole subject. In pursuance of the recommendation therein made, two acts were passed by the legislature, threatening reprisals on the one hand and holding out an olive branch with the other. The first of these was "an act to withdraw from the Bank of the United States the protection and aid of the laws of this state, in certain cases."<sup>32</sup> Sheriffs and jailers shall not, after September 1 next, take into custody persons arrested at the suit of the bank. Officers of justice shall not receive acknowledgements for the Bank. Notaries public shall not make protest of notes payable to the Bank. Heavy penalties were provided for violating the law. The last section of the act provided, however, for the suspension of these provisions under certain conditions. If the Bank would discontinue its suits against the state officers, and would in future submit to an annual tax of 4 per cent. on the dividends of their busi-

<sup>30</sup>*Ho. J.*, 1819-20, p. 61.

<sup>31</sup>*Ho. J.*, 1820-21, pp. 98-132.

<sup>32</sup>Act of Jan. 29, 1821. Chase, *Ohio Statutes*, II, 1185. The House passed this act by a vote of 47 to 11. *Ho. J.*, 1820-21, p. 324.

ness in Ohio;<sup>33</sup> or if it would withdraw its branches, then the act should be suspended.

Four days later a second act was passed setting forth still more explicitly the terms upon which the state was willing to compromise.<sup>34</sup> The legislature stated its willingness to refund the excess of the tax over 4 per cent. on the dividends. Whenever the Bank will withdraw its suits against the state officers and will submit to the payment of a tax equal to 4 per cent. on its dividends, or if the Bank will withdraw its branches from the state, \$90,000 will be refunded to it. And in future a tax of \$2,500 shall be collected annually as a tax, or else 4 per cent. on the dividends. No attention was paid to these proposals by the Bank, and the act of outlawry accordingly went into effect the following September. It does not seem to have been observed, however, but remained a dead letter on the statute books until it was finally repealed five years later, on January 18, 1826.<sup>35</sup>

No further legislation was enacted relative to the Bank of the United States. In 1822 a resolution to repeal the law levying the tax on the branches of the Bank of the United States was rejected in the Senate, 27 to 6.<sup>36</sup> By this time the bad effects of the crisis of 1819 had largely passed away, the necessary liquidation had taken place, and prices were rising again. The attention of the people and the legislature was moreover being absorbed by other topics of even greater interest, namely schools and canals. When the case of *Osborn vs. the Bank of the United States* came up an appeal before the Supreme Court at the February term, 1824, there was no excitement. The decree of the circuit court was affirmed, except that interest should not be paid on the coin part of the money taken.<sup>37</sup> As soon as the decision was announced Ohio acquiesced fully, and made no further effort to contest the point at issue.

<sup>33</sup>This was the rate of taxation on Ohio banks.

<sup>34</sup>Act of Feb. 2, 1821. Chase, *Ohio Statutes*, II, 1198.

<sup>35</sup>*O. L.*, ch. 675, §1.

<sup>36</sup>*Niles' Register*, Jan. 5, 1822, XXI, 303.

<sup>37</sup>March 19, 1824. 9 Wheaton, 739.

Throughout these proceedings [wrote Salmon P. Chase, then a young lawyer in Cincinnati<sup>38</sup>] the state and her officers manifested the utmost respect for the constitutional tribunals of the country. They believed, conscientiously, that the state possessed the right to tax the bank, and measures were taken for the exercise and enforcement of that right. But in no instance was any indignity offered to any judicial tribunal, nor was resistance, in any case, opposed to judicial process. The state was true to the principles which had characterized her former course; and when the Supreme Court decided against her, she exhibited an example of dignified and unconstrained submission to the judgment of that high arbiter.

#### STRUGGLE OVER NOTE ISSUES, 1819-1854.

During the same session which saw the beginning of the war against the Bank of the United States, an act was passed against those state banks which did not redeem their notes.<sup>39</sup> The holder of the notes was permitted to recover six per cent. damages. Post notes and bank notes under \$1 were forbidden. These prohibitions indicate clearly enough a condition of inflation, which is still more strikingly evidenced by another law<sup>40</sup> which made it a misdemeanor to accept a bank note for less than its face value and imposed a fine of not over \$500 for so doing. This act was repealed the following year,<sup>41</sup> but at the same session the prohibition of post notes was repeated,<sup>42</sup> and the previous laws against banks which did not redeem their notes were strengthened and re-enacted. Of the twenty-five banks in the state in 1819 only six or seven were redeeming their notes.<sup>43</sup> They were classified as seven good, four decent, four middling, and four good for nothing.<sup>44</sup>

The state was fairly flooded at this time with bank paper, most of which was unprotected by adequate reserves.

<sup>38</sup>Chase, *Statutes of Ohio*. Preliminary Sketch. I, 43.

<sup>39</sup>Feb. 5, 1819. This was virtually reenacted, with more stringent provisions, Feb. 18, 1820, and Feb. 2, 1821.

<sup>40</sup>Feb. 8, 1819.

<sup>41</sup>Jan. 24, 1820.

<sup>42</sup>Feb. 22, 1820.

<sup>43</sup>Sumner, *op. cit.*, p. 152.

<sup>44</sup>Niles' Register, XVII, 186.



and some of which was dishonestly issued. The report of a committee appointed "to enquire into the state of the funds in the treasury" in 1820, reported<sup>45</sup> a total balance of \$214,396, of which \$141,336, or 66 per cent., consisted of bank notes.<sup>46</sup> There was \$17,279 in silver coin, and \$3,931 in gold coin; the rest consisted of credits in banks, paper representing loans, and redeemed auditors' bills. Subsequent reports of the auditor are filled with accounts of his efforts to enforce judgments against various banks, whose paper he held. In 1821 only one bank in twenty-one redeemed any of its notes, and that one redeemed only \$5,000 out of \$16,000 presented.<sup>47</sup> In 1822, eight were reported bankrupt; in 1831, twenty were reported in that condition.

The worst offenders against sound banking principles and the most unscrupulous in the issue of their notes had been the banks chartered or incorporated in 1816.<sup>48</sup> In 1820 a joint legislative committee was appointed to take into consideration the propriety and expediency of corresponding with the several chartered banks in this state to ascertain upon what terms they would be willing to surrender their charters; and what measures would be most expedient to compel the payment of their notes in specie.

Later in the session they reported that the only part of the law which all the banks had observed was that requiring a certificate of acceptance of their charters.<sup>49</sup> The other provisions were honored only in the breach. No

<sup>45</sup>*Ho. J.*, 1820, p. 307.

<sup>46</sup>Of this amount \$78,180 was notes of the Bank of the U. S. or its branches.

<sup>47</sup>*Treas. rep. Ho. J.*, 1821, p. 66. The treasurer reported that \$33,933 in bank notes were in the treasury, for which specie could not be obtained at the banks issuing them. Of these, \$11,081 was "tolerable current"; \$1483 "irremediably lost to the state"; the rest doubtful. Four years later the treasurer reported the sale of funds consisting of depreciated bank notes and claims against banks amounting to \$11,511, for \$4,345 in cash. *Ho. J.*, 1825, p. 83.

<sup>48</sup>Act of Feb. 23, 1816. See p. 259.

<sup>49</sup>*Sen. Jo.*, 1820, p. 85.

<sup>50</sup>*Sen. Jo.*, 1820, p. 175.

action was taken, however, looking to a change in their charters, until 1825. An act was then passed<sup>51</sup> amending the law of February 23, 1816, which had granted to the state one share in every twenty-five of the capital stock of all banks chartered under that act, by providing for the return to the banks of all shares which had been set off to the state, if they would pay the state two per cent. on their dividends from their organization to this time, and four per cent. on their dividends for the future, and concede to the state the right to tax them.

It is impossible to say exactly how many of the banks accepted this proposal, as no record appears in the documents of this period. But some years later, by the act of February 21, 1843—the year when the charters of these banks expired—five old banks were re-chartered under a new law.<sup>52</sup> The other eight had apparently either accepted this law of February 5, 1825, or had gone out of existence in the interval. That is, not more than eight banks surrendered their charters, if that many. In 1834 an act was passed authorizing the treasurer to compound with those banks which had not yet accepted the provisions of the act of 1825,<sup>53</sup> and the following year the treasurer reported that two of the banks had paid the back taxes and had been reinvested with their stock, and that a similar arrangement might be effected with one or two others, but that the remainder of the institutions were either insolvent or had dissolved.<sup>54</sup>

During this same session of 1825 the legislature entered upon the new and eventful policy of public improvements, and, as the attention of that body was fully occupied by this important subject, bank legislation languished for several years. By the act of March 12, 1831, a tax of five per cent. was levied upon the dividends of banks, insurance, and bridge companies. Five years later this was amended

<sup>51</sup>Act of Feb. 5, 1825.

<sup>52</sup>That of March 7, 1842.

<sup>53</sup>Act of March 3, 1834.

<sup>54</sup>*Ilo. J.*, 1835, p. 505.

by an act<sup>55</sup> providing that the auditor should collect from banks twenty per cent. upon their dividends; but if any bank would agree not to issue any bills smaller than \$3 after July 4, 1836, nor smaller than \$5 after July 4, 1837, the auditor should collect from such bank only five per cent. of the dividends. Most of the banks accepted this law.

Banks had multiplied rapidly in Ohio during the previous years<sup>56</sup> under the stimulus brought about by the increased immigration, the building of the Ohio canals, the opening up of large areas of fertile land, and the increased trade.

Both the loans and circulation showed a great expansion and inflation, as to which this law offers ample testimony. Between January 1, 1811, and July 1, 1830, eighteen banks failed, with a combined capital of \$1,911,179.<sup>57</sup>

Fairly complete statistics of banking can be given for the subsequent decade, as the banks were now required to make annual reports to the state treasury department. The following table presents the salient facts for the years 1835-1844:<sup>58</sup>

<sup>55</sup>March 14, 1836. cf. Acts of March 13, 1838, and Feb. 9, 1839.

<sup>56</sup>Among the banks chartered at this time was the Ohio Life and Trust Company (Feb. 12, 1834), which later acted as agent for the State and defaulted in 1857 for a considerable amount of public deposits.

<sup>57</sup>Statistics showing the banking operations in detail are lacking for this period. In 1820 there were 19 banks in the state with capital of \$1,697,463, circulation of \$1,203,869, deposits of \$454,452, and specie of \$433,612; one bank, with a capital of \$100,000, did not report. Gallatin, *Considerations*, pp. 97-105.

<sup>58</sup>Gov. Mess., 1844, p. 16.

## BANKING IN OHIO, 1835-1844 (000 OMITTED).

Year.	Capital.	Circulation.	Specie.	Loans.
Jan., 1835.....	\$ 6,391	\$5,654	\$1,907	\$10,071
Jan., 1836.....	8,370	9,676	2,925	17,080
Jan., 1837.....	9,247	8,327	3,153	18,179
May, 1837.....	10,870	7,697	2,312	19,506
Dec., 1837.....	11,332	6,221	2,674	17,213
June, 1838.....	10,299	6,885	2,995	15,881
June, 1839.....	10,027	7,424	2,361	16,030
Jan., 1840.....	10,508	4,607	1,752	13,414
1841.....	(Banks set the laws at defiance and refused to make reports.			
June, 1842.....	7,138	1,335	827	7,725
June, 1843.....	3,460	1,545	633	4,019
Oct., 1844.....	2,325	2,183	719	2,845

In 1836 Ohio renewed the war against the Bank of the United States and other banks chartered outside the state. The federal charter of the Bank of the United States had expired in 1836, but a new one had been granted by the state of Pennsylvania, incorporating it as a state bank. The preamble of the opening act<sup>59</sup> against this bank states that "whereas the stockholders of the Bank of the United States have been incorporated, and whereas the general welfare of this state forbids the establishment within its limits of any branch of the said bank", and then proceeds to make it unlawful for any bank or person in Ohio to act as its agent, or to circulate its notes. Very heavy penalties were provided for the violation of any of its provisions. This law was repealed January 26, 1838, but the following year it was revived in a modified form.<sup>60</sup> The new act provided that no bank incorporated by the laws of any other state, or by the laws of the U. S., was to establish a branch in Ohio without the consent of the general assembly. It was further made unlawful for any bank or person to act as agents of a foreign bank in Ohio, but the penalties prescribed were not so heavy as in the previous act.

<sup>59</sup>March 14, 1836.

<sup>60</sup>Feb. 9, 1839.



Nothing illustrates the nature of banking at this period and the power of the banks so well as the attempts of the legislature to control the issue and circulation of unauthorized bank-notes, and the failure of such legislation. In 1838<sup>61</sup> all unincorporated companies were forbidden to issue notes without authorization; and incorporated companies were forbidden to issue unauthorized notes under pain of losing their charters. The following year unauthorized notes were defined so as to include all paper that was intended to circulate as money.<sup>62</sup> That such legislation was necessary is shown by the growth of various associations, such as libraries, orphans' institutes, and similar organizations, which engaged in banking and issued notes. The auditor's report in 1839<sup>63</sup> described the attempt of two of these to win recognition of their banking rights from the state by declaring a dividend and then asking to be taxed thereon.

Another kind of unauthorized issues against which the state valiantly, though unsuccessfully, struggled was small notes. In 1838 the act of March 14, 1836,<sup>64</sup> was repealed, and banks were authorized to issue small bills as low as \$1, provided they maintained specie payments.<sup>65</sup> Suspended banks were required to resume specie payments by July 4, 1838, if by that time the banks of New York City, Philadelphia, and Baltimore had resumed. As these banks all resumed during the summer, most of the Ohio banks did so also.<sup>66</sup> Specie payments had been suspended in Ohio, in common with the rest of the country, after the panic of 1837. The following year<sup>67</sup> all bank notes under \$3 were forbidden after July 4, 1839; all those under \$5 and between \$5 and \$10 after October 1, 1839. If any bank offended it was to pay a fine of \$50 for each unauthorized

<sup>61</sup>Feb. 16, 1838.

<sup>62</sup>March 18, 1839.

<sup>63</sup>Aud. rep. of Dec. 3, 1839.

<sup>64</sup>See *ante*, p. 272.

<sup>65</sup>March 13, 1838.

<sup>66</sup>Sumner, *History of Banking in the U. S.*, p. 292.

<sup>67</sup>Act of Feb. 9, 1839.

note, or lose its banking privileges. Another law in 1840<sup>68</sup> showed how ineffective this legislation had been. Small notes were once more forbidden, as were post notes and those payable elsewhere than at place of issue. All notes were declared redeemable in specie, no broker was to pay out illegal notes, and no state officer was to receive or pay out notes under \$5. This law was successful in reducing somewhat the circulation of unauthorized notes.<sup>69</sup>

As the rest of the story of the state's struggle against unauthorized issues can be told in a few words, it had best be concluded in this connection. In January, 1842, there were riots against the banks in Cincinnati and Louisville, on account of trouble with the circulation.<sup>70</sup> On January 21, the legislature passed resolutions exhorting neighboring states to resume specie payments and pledging Ohio to do the same. On February 18, an act was passed to enforce the resumption of specie payments, stating that banks not redeeming their notes should be held to have forfeited their charters, and forbidding them from assigning. On March 7, state officers were forbidden, after March 4 of the next year, to pay out any note not redeemable in specie or demand. Another act, passed the same day, showed that unauthorized companies were still issuing notes, for the penalty of forfeiture of charter is prescribed for such acts. There was no further legislation until 1845, when an act<sup>71</sup> was passed forbidding the establishment of unauthorized banks, and the issue of unauthorized bank notes; the prohibition of small notes under \$5 was also repeated.<sup>72</sup> The following year<sup>73</sup> the circulation of notes under \$5, issued by banks chartered out

<sup>68</sup>Act of March 23, 1840.

<sup>69</sup>Second an. rep. of Bank Commissioners, 1841.

<sup>70</sup>Sumner, *History of Banking*, p. 400.

<sup>71</sup>March 2, 1845.

<sup>72</sup>In 1845 the nomenclature of the Ohio currency was given as "yellow dog", "red cat", "smooth money", "blue pup" and "sick Indian". Niles' *Register*, LXVIII, 272, quoted by Sumner, *History of Banking*, p. 403.

<sup>73</sup>Act of Jan. 22, 1846.

of the state, and of all notes not received by such bank on deposit, was prohibited in Ohio. Two years later another act<sup>74</sup> forbade the Ohio banks to pay out for circulation the notes of banks of other states; a penalty of one-half the amount involved was provided. Six years later the last act in this catalogue of bad banking and ineffective legislation was passed: this was an act<sup>75</sup> to prohibit the circulation of foreign bank bills of a less denomination than \$10 after October 1, 1854.

#### REGULATION OF THE BANKS, 1839-1850.

Meanwhile the state had taken the first important step in the direction of a better regulation of the banks. This was done by the bank commissioner law of February 25, 1839,<sup>76</sup> "of which the banks have complained the most." It provided for three bank commissioners to visit and examine each bank at least once a year; for the publication by each bank of a monthly statement showing the true situation and condition of the bank. The circulation was never to exceed three times the specie, banks were not to buy their own notes at a discount, and were fined twelve per cent. for non-redemption. If any bank refused to redeem its notes in gold or silver for more than thirty days in one year it should be closed and the charter annulled. All these provisions are intended for the security of the public against the insolvency of banks, and they are such as no bank ought to object to. . . . Previous to the passage of this law, the public had not means of knowing whether a bank was worthy of credit or not, until it openly proclaimed its insolvency, and then, in most cases, it was too late to secure any of its assets for the payment of its debts. The whole operations of our banks were to the public as a sealed letter, until the means were provided in this act to enable the public to know and judge of their true condition.<sup>77</sup>

The first report of the Bank Commissioners,<sup>78</sup> January, 1840, showed that half the banking capital of the state was

<sup>74</sup>Feb. 24, 1848.

<sup>75</sup>May 1, 1854.

<sup>76</sup>Gov. Mess., *Exec. Doc.*, 1840, Doc. No. 1, p. 26.

<sup>77</sup>Gov. Mess., 1840, *ut supra*, p. 26.

<sup>78</sup>Quoted by Sumner, *Hist. of Banking*, p. 328.

owned by non-residents, and that one-third of all the loans were to bank officers and directors as borrowers or endorsers. "The banks distrusted one another and the public distrusted them." Nine institutions were mentioned which had illegal circulation.

There were now twenty-three banks in the state, of which number the charters of thirteen expired on January 1, 1843, and of two others in January, 1844.<sup>79</sup> Accordingly it was now within the power of the legislature to prescribe the conditions under which their charters should be renewed.<sup>80</sup> This was done by the "act to regulate banking in Ohio", passed March 7, 1842. Heretofore every bank had been chartered separately, but now for the first time a general incorporation act was passed, to apply to all banks alike. The most important provisions were as follows: the banks organized under this law were not to commence business until all the capital had been paid in in specie, which must be certified to by the Bank Commissioners (sec. 4); no loan to be made to a director for more than half his shares, nor to one person for more than certain specified amounts (\$8000 in a \$100,000 bank, etc.); the circulation was limited to the amount of the capital, and a reserve of  $33\frac{1}{3}$  per cent. in specie must be kept (sec. 13); the notes to be countersigned by a state officer, who should guard against over-issue; a tax of one-half of one per cent. on the capital, but this might be changed by the legislature (sec. 20); the denominations of the bills were to be \$5, \$10, \$20, \$50, and \$100 (sec. 30).

In 1843 this act was amended,<sup>81</sup> chiefly by guarding against the abuse of their powers on the part of officers and directors. At the same time four new banks were organized under it, and five old ones were rechartered. Most of the banks in the state, however, refused to organize

<sup>79</sup>Gov. Mess., *Exec. Doc.*, 1842, I, 6.

<sup>80</sup>As the governor said (*Exec. Doc.*, 1840, Doc. No. 76, p. 67): "It is a question . . . only under what modifications and restrictions they shall be permitted to live."

<sup>81</sup>Act of Feb. 21, 1843.



under it, as they claimed that its provisions were too strict, and insisted upon a relaxation.<sup>82</sup> On February 15, 1844, three banks which complained of the restrictions of this law and asked extensions of their old charters obtained what they asked for, on condition of assenting to individual liability and keeping one-third of their circulation in specie. Immediately afterwards three others took the same step.

The new banking law was a great improvement upon anything which had preceded it. As the governor, in his message of 1844, said: "Industry and enterprise, relieved from the bondage of banking operations, are recovering their energies with renewed vigor." It was estimated that the people of the state had lost by bad circulation since 1831 one million and four hundred thousand dollars;<sup>83</sup> up to 1844, forty-seven banks had failed in the state.<sup>84</sup>

In 1845 the State Bank of Ohio was organized.<sup>85</sup> A number of existing banks, with an aggregate capital of \$6,150,000, were to be combined to form the central bank. Each bank was to report whether it wished to be indepen-

<sup>82</sup>A reference to the table on p. 273 shows that the years 1841-1844 were very hard for the banks.

<sup>83</sup>Rep. of Bank Commissioners, 1844.

<sup>84</sup>In spite of failure and financial disaster many people thought the liberal issue of bank notes essential to the prosperity of the country, and favored liberal and even loose legislation on the subject. As the governor wrote in his message in 1842: "The error which prevails on this subject has its origin in the common, vague impression that we are dependent on the bank system for the supply of a sufficient quantity of the circulating medium, and that, without bank paper, commerce would not flourish, business would stagnate, and the country cease to advance in prosperity and improvement. This fallacy is the chief cause of that superstitious attachment to the paper system which with some has become idolatry." At the sessions of 1835-6, 1836-7, 1838-9, and 1840-1, petitions for more banks flooded the legislature in unequalled numbers, especially after the crisis of 1837. "The delusion seemed to hold a portion of the people spell-bound with the idea that an addition to the bank issues and bank loans, already existing to an alarming excess, could relieve the country. And the legislature was even censured as refusing to do anything for the good of the country because the insatiable demand for banks was resisted." Gov. Mess. *Exec. Doc.*, 1844, Doc. No. 1, p. 11.

<sup>85</sup>Act of Feb. 24, 1845.

dent or a branch of the State Bank. When seven banks signified their intention to become branches, they should each elect a member of the Board of Control, which in turn should elect the president. This board had visitorial powers, and control over the circulation. A board of Bank Commissioners was also provided for, consisting, after the first year, of the auditor, treasurer, and secretary of state. Provision was made for a sinking fund of ten per cent. of the circulation. Notes must be redeemed in specie.

By the same act the circulation of the independent banks was based upon a deposit of Ohio or United States bonds with the state treasurer, to the amount of the capital; notes might be issued up to the market value of the bonds; a reserve of thirty per cent. must be kept in specie. Stockholders were made liable for not more than three-fifths of the capital, and provision was made for annual examination of the banks. The charters of both the state and the independent banks were to expire in 1866.

The new banking law was deliberately enacted, after a careful examination of other systems, and was accepted by the banks and the people alike as a solution of the former problems. By the end of the year twenty-one banks had organized and were doing business under this act. "And already", wrote the governor in January, 1846, the people of Ohio begin to feel the influence of this system in the restoration of confidence, the revival of business, the increase of the wages of labor, and the rising prosperity of the state.<sup>86</sup>

A year later there were twenty-six banks in operation under the new system, of which nine were independent and seventeen branches of the State Bank.<sup>87</sup> In 1848 the State Bank had thirty-seven branches, and there were also eleven independent banks, and seven old banks.

There were now three different kinds of banks in Ohio, organized under different laws, but all of them under restrictions in the use of their banking powers. The following table shows the amount of their circulation and

<sup>86</sup>Gov. Mess., *Exec. Doc.*, 1845, I, 5.

<sup>87</sup>Gov. Mess., *Exec. Doc.*, 1846, I, 10.

capital on November 1, 1846, and the amount of taxes paid by them during the preceding year:<sup>88</sup>

	Capital	Circulation	Taxes paid during year	Percent paid in taxes on average amount of capital
Nine Independent Banks.....	\$ 376,170	\$ 612,645	\$ 3,278	1.04
State Bank and 17 Branches..	1,496,757	2,655,346	9,119	.77
Eight Old Banks.....	3,953,750	2,406,958	16,272	.41
Total (34 banks).....	\$5,826,677	\$5,674,769	\$28,669	.53

#### BANK TAXATION.

We have now reached the point where for the first time an effort was made to tax banks like other property. Heretofore they had been treated with great partiality by the legislature, in the belief that the prosperity of the state depended upon the development of banking institutions and that their growth ought consequently not be interfered with by burdening them with taxes. The favoritism displayed to them and other interests had in fact led to a strong reaction against this legislative policy, and brought about the passage of the tax law of 1846, which had as its avowed purpose the equal taxation of *all* property.<sup>89</sup> It may be well, however, at this point, before taking up this act, to review briefly the history of bank taxation in the state up to this time.

The first law imposing a tax on banks in Ohio was, as we have seen, the act of February 8, 1815, which levied a tax of 4 per cent. on dividends; it further provided that if any banks failed to report their dividends the auditor was to levy a tax of 1 per cent. on their nominal capital. Hardly had this act been put in operation, however, when the new legislature reversed the policy of taxation, and enacted the law of February 23, 1816, according to which all banks accepting its provisions were to be exempt from

<sup>88</sup>Aud. rep., Dec. 16, 1846.

<sup>89</sup>See Chapter IV, on The General Property Tax, p. 214.

taxation. In return they were to set aside for the state one-twenty-fifth of their capital stock, to be paid for out of the profits on this stock in twenty-five years. Such banks as did not avail themselves of this act, were still taxed under the law of 1815. The attempt to tax the branches of the Second Bank of the United States in 1819 belongs less to a history of taxation of banks in Ohio than to that of an effort to oust a rival institution from the state by means of the taxing power. It had, obviously, no effect on the status of other banks. The act of March 12, 1831, levied a tax of 5 per cent. on the dividends of banks, insurance, and bridge companies. The revenues from this source increased steadily until they reached almost \$75,000 in 1836, after which they fell off again as a result of the panic of 1837. By 1842 those from the tax on bank dividends seem to have practically disappeared.<sup>90</sup>

By the act of March 2, 1846, the principles of the general property tax were generally applied to the property and industries within the state, though even yet exceptions were made in particular cases. Banks, merchants, manufacturers, and other corporations were dealt with by special rules. That relating to banks imposed a tax of six per cent. on their gross profits. But as many of the existing banks, through their charters or by reason of previous legislation, were exempt from the operation of this act, it failed to bring about uniformity in the taxation of banks. The percentage of taxes paid on their average capital for the year 1846 by the different classes of banks was as follows:<sup>91</sup> independent banks, \$1.04; State Bank, 76 cents; old banks, 41 cents. As the rate on real and personal property for the same year was 63 cents, it was clear that the "new" banks were taxed more heavily and the "old" banks less heavily than other property under the general property tax. The reason for the more lenient treatment of the old banks was that under the act of March 14, 1836, to prohibit the circulation of small bills,

<sup>90</sup>And. rep., Dec. 6, 1842.

<sup>91</sup>See table on p. 280.



a proposition was made by the state to these banks, to release them from the liability to pay more than five per cent. on their dividends, upon the condition that they would relinquish the right to issue small bills. This proposition was accepted by most of the old banks, and they were consequently exempted from the payment of more than five per cent. upon their dividends.<sup>92</sup>

In 1850 an act was passed<sup>93</sup> providing that all banks should be taxed alike on their capital and surplus at the rate of general state taxation, and the banks were asked to accept this method instead of the other forms of taxation to which they were entitled by their charters or through earlier laws. By December of that year only five banks had accepted the provisions of this act.<sup>94</sup>

This same year saw the meeting of the constitutional convention and the following one the adoption of a new constitution. In this the principle of equality in taxation was affirmed, and all discrimination between different forms of property forbidden. Section 2 of Article XII required that "laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise". But section 3 was directly specifically against the banks and left no doubt whatever as to the intentions of the framers of the constitution. They were on the whole hostile to the moneyed interests and corporations in the state; they were afraid of their power in gaining exemptions and favors for themselves; and they distrusted the legislature. Consequently they insisted specifically that banks must be taxed like other industries or individuals. They forbade the granting of special privileges or exemptions of any sort, and they incorporated these provisions in the organic law of the state itself. Section 3 read as follows:

The General Assembly shall provide by law for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects or dues, of any description, without deduction, of all banks now

<sup>92</sup>Aud. rep., Dec. 16, 1846.

<sup>93</sup>Act of March 23, 1850.

<sup>94</sup>Aud. rep., 1850.

existing or hereafter created, and all bankers, so that all property employed in banking shall always bear a burden of taxation equal to that imposed on the property of individuals.<sup>95</sup>

It remained now to carry out by legislation the mandates of the constitution, and the effort to do this led to a protracted struggle between the legislature and the banks, which continued until the reorganization of the banking system in the sixties.

#### STRUGGLE WITH THE BANKS OVER TAXATION.

The efforts to enforce the principles of the constitution as to equality of taxation and the abolition of special privilege led to the passage of a great deal of banking legislation, much of it decidedly hostile to the banks, and all actuated by the determination to restrict the abuses which had characterized the two previous decades. Before taking up the account of the struggle over taxation, we must note a new banking act for the organization and note issue of future banks. This was the "free banking act" of 1851,<sup>96</sup> which opened the business of banking to any association of three persons complying with the provisions of the law. Up to 1842 banks had been chartered by special acts of the legislature, and the same evils had been observable in Ohio that led in New York and other states to similar free banking measures.

The minimum capital was fixed at \$25,000. A bank might begin business when sixty per cent. of the capital stock had been paid in. The notes were to be secured by the deposit with the state auditor of bonds of the United States or of Ohio, and notes might be issued to the amount of bonds thus deposited, but in no case above their market

<sup>95</sup>Other sections of the constitution dealt with the organization and other features of banks and other corporations, but as these relate to the history of banking rather than to that of the taxation of banks, we shall not consider them here, except to cite section 7 of Art. XIII, which is indicative of the general attitude towards banks at this time: "No act of this general assembly, authorizing associations with banking powers, shall take effect until it shall be submitted to the people, at the general election next succeeding the passage thereof, and be approved by a majority of all the electors, voting at such election."

<sup>96</sup>Act of March 21, 1851.

value (or par value if the market value was above par), nor in excess of three times the amount of the paid in capital. A reserve of thirty per cent. of the outstanding circulation must be kept on hand by each bank, of which one-half must be in coin. The denominations of the notes were fixed at 1, 2, 3, 5, 10, 50, and 100 dollars. Thirteen banks organized under the provisions of this law.<sup>97</sup>

There were now four systems of banks in Ohio: the "old" banks (those chartered before 1845), the State Bank with its branches and the independent banks (both chartered under the act of 1845), and the free banks (chartered by the act of 1851). The banking capital of the state was distributed among them in 1854 as follows:

Old banks.....	\$1,550,000
State Bank and branches.....	4,100,000
Independent banks.....	720,000
Free banks.....	695,000

Another act<sup>98</sup> was passed on the same day that the free banking law was enacted, providing that banks should be taxed on their capital and surplus at the same rate that other property in the state was taxed, in lieu of the old taxes on profits or dividends. The following year a stronger act was passed, to carry out the constitutional provisions for uniform taxation of all property, ordering that all banks must return to the auditor (1) the average amount of notes and bills discounted during the past year, and (2) the average amount of all other loans.<sup>99</sup> These laws materially increased the taxes on the older banks and were bitterly resisted by them. A struggle now began between the banks and the legislature over the question of the right to tax them in this way, and continued through the rest of the decade. The banks succeeded in breaking down these laws in the courts, on the ground that they violated the contracts made with the banks when they were chartered, or in the case of the "old" banks when they acceded to the conditions of the act of March 14, 1836,

<sup>97</sup>Aud. rep., Feb. 12, 1853.

<sup>98</sup>Act of March 21, 1851. This was simply a repetition of the act of March 23, 1850.

<sup>99</sup>Act of April 13, 1852. Swan's *Statutes*, 1854, p. 905.

prohibiting the circulation of small bills.<sup>100</sup> The old banks were finally compelled to yield, however, as their charters ran out and they could obtain a renewal of them only by meeting the new conditions.

The attitude of the banks is graphically set forth in a report by the auditor of state, from which we quote at length:<sup>101</sup>

At the date of making this report, but few of the Banks of Ohio have paid the taxes assessed against them under the provisions of the act of April 13, 1852. This delinquency is not a matter of accident, but is attended by circumstances which betray the existence of a conspiracy to trample upon, and override the very authority which gave to the conspirators their corporate existence. In numerous instances, the officers of banks by closing their vaults upon the treasurer, have taken from him all opportunity of making distress without first forcing an entrance. A want of clearness in the law respecting the extent to which the powers of a treasurer reach, has been seized upon as a ready and successful means of intimidating many well disposed officers from exercising the rights which it is believed were intended to be conferred by existing statutes. In other instances, all the valuable effects of the banks have been taken from the banking house, and removed to some unknown place of concealment. By these, and other means involving, in some cases, the bodily peril of the treasurers, the collection of the taxes has been successfully defeated.

In order to compel the payment of their taxes the auditor suggested that the accruing interest on the bonds deposited with the state officers by the "free" and the "independent" banks to secure their circulation be retained to an amount sufficient to pay the delinquent taxes. The legislature did not follow the suggestion of the auditor, but instead passed a drastic act, known as the "crow-bar" law, providing for the seizure of the property of delinquent banks.<sup>102</sup> It was entitled

an act to enforce the collection of taxes which now are, or may hereafter be due from banks and other corporations, from bankers, brokers, and stock jobbers, and from the agents of foreign corporations, and to protect county treasurers and other officers charged with the collection of the public revenue in the performance of their duties.

<sup>100</sup>16 Howard, 369. Quoted by Sumner, *History of Banking in the U. S.*, p. 442. For the provisions of the law of 1836, see above, p. 272.

<sup>101</sup>Aud. rep., Feb. 12, 1853.

<sup>102</sup>Act of March 14, 1853. Swan's *Statutes*, 1854, p. 928



The act provided that the county treasurer should demand taxes then unpaid, or unpaid on December 21 of any year, assessed under the act of April 13, 1852, of all banks, brokers, and stock-jobbers, with five per cent. penalty. If the taxes were not paid in five days, then the coin and property at the office might be seized, and sold at public auction. But the bank might get back its property by paying the taxes and penalty. The state auditor might do the same for companies doing business in more than one county. Sales or transfers of coin or property for the purpose of evading the tax were declared to be void; and the concealment of coin, securities, etc., for the purpose of avoiding the tax, was declared a misdemeanor, punishable by a fine of \$1000, or imprisonment in the county jail, or both.

#### THE CRISES OF 1854 AND 1857 AND CONDITION OF THE BANKS.

In 1854 there was a bank crisis in Ohio and the neighboring states. A heavy run commenced in May upon the Ohio banks for coin, and continued for sixty days before any bank suspended. "A crisis then showed itself in the whole monetary operations of the western country."<sup>103</sup> The notes of many banks in Ohio fell to a discount and the banks suspended. The Ohio valley had been the scene of extensive and rapid railroad building, which was checked by the discovery of fraudulent practices in the issue of stock.<sup>104</sup> A very great reduction of bank circulation took place, especially in the states of the Ohio valley. The bonds deposited with the state auditor declined so in value as to afford insufficient security for the note circulation of the free banks. The notes of the old banks, for whose safety no special provision was made, became almost valueless.

In 1857 a more general financial crisis occurred throughout the country. This resulted largely from speculation and from the undue expansion of credit. The in-

<sup>103</sup>Aud. rep., quoted by Sumner, *Hist. of Banking in the U. S.*, p. 444.

<sup>104</sup>*Ibid.*, p. 424.

flux of gold resulting from the California and Australian discoveries in 1848 and 1851 greatly augmented the amount of money in circulation, and this was still further increased by a large expansion of credit currency. Between 1848 and 1857 the increase in the amount of coin and of bank notes in circulation was as follows:<sup>105</sup>

## COIN AND BANK NOTES IN THE UNITED STATES.

	Coin.	Bank Notes.
1848.....	\$126,753,027	\$128,506,041
1857.....	276,100,442	214,778,222
Increase .....	\$149,367,418	\$ 86,272,181

There were over 1400 banks in the United States, of which 54 were in Ohio. The following table shows their condition for August and November, 1857; while their position was fairly strong in the former month it had been materially strengthened by November.<sup>106</sup>

## OHIO BANKS IN 1857.

	LIABILITIES.			RESOURCES.	
	Circulation.	Deposits.	Specie.	Other cash res.	Discounts, bonds, etc.
Aug. 3.....	\$8,132,305	\$5,155,031	\$1,726,277	\$3,517,230	\$15,829,751
Nov. 2.....	7,637,955	3,738,652	1,616,255	3,022,552	14,030,045

Probably the financial readjustment and liquidation which had occurred three years previously, and perhaps also the restrictive legislation of the past decade, had put the Ohio banks in a better position to weather the storm than those of the eastern states.<sup>107</sup> One of the few banks to fail was the Ohio Life Insurance and Trust Company, the strongest single bank in the state, which went down on August 24, 1857. This failure was entirely unexpected and was due immediately to the speculation and defalcation of the New York agent. The bank was unable to

<sup>105</sup>Message of Gov. Chase, Jan. 4, 1858. *Exec. Doc.*, 1857, I, 351, 353.

<sup>106</sup>*Ibid.*, p. 354.

<sup>107</sup>The suspension of specie payments was general except in the Ohio valley, in South Carolina, at New Orleans, and by the Chemical Bank in New York City. Sumner, *ut supra*, p. 427.

withstand this shock, however, for the more fundamental reason that it had advanced loans, probably to the amount of five million dollars, for railroad building, upon which it could not realize in its hour of need. The governor's messages and auditor's reports for this period are full of adverse criticisms of prevailing banking methods, and earnest in their advocacy of a coin currency.<sup>108</sup>

Some of the worst banking practices were carried on, not by the legally authorized banks of issue, but by private bankers; the Ohio Life Insurance and Trust Company had probably been involved in these practices, the disastrous effects of which were first apparent upon its failure. Many of these bankers borrowed notes from banks outside of the state, at low rates of interest, which they put into circulation in Ohio and redeemed when they returned to the issuing bank. The effect of these arrangements was to introduce into the state a mass of foreign bank paper which expelled from circulation not only nearly all the coin, but also nearly all the notes of the Ohio banks, and exposed the community to great inconvenience and loss. So real was the evil that Governor Chase urged an amendment to the act of February 24, 1848, relating to the circulation of unauthorized bank paper, in order to stop it.<sup>109</sup>

By this time the charters of the "old" banks had

<sup>108</sup>Especially interesting are the statements of S. P. Chase, who became governor of Ohio on Jan. 1, 1855. In his inaugural message he writes, "the best possible currency, in my judgment, would be a currency of coin, admitting the use of large notes only for the convenience of commerce." In view of his later official utterances and actions as Secretary of the Treasury, his earlier views, of which this is only one example, are of particular interest. *Exec. Doc.*, 1854, I, 4; 1857, I, 357.

<sup>109</sup>Gov. Mess., Jan. 4, 1858. *Exec. Doc.*, 1857, I, 357. In 1859, it was estimated that the issues of foreign banks, then in the hands of the people of Ohio, were equal to the issues of the Ohio banks, or about eight and a half million dollars. "Of this sum a very considerable portion consists of the issues of banks which have suspended specie payments, embracing the bank of Pennsylvania, Maryland, Virginia, Missouri, and parts of the issues of other states. All such issues have depreciated in the hands of the people of Ohio, at least ten per cent., amounting in the aggregate to several hundred thousand dollars." Gov. Mess. *Exec. Doc.*, 1860, I, 549.

expired and they had either been wound up or had re-organized as "free" banks. There were now consequently only three classes of banks in Ohio, whose relative importance, character of business, and financial stability are shown in the following table:<sup>110</sup>

CONDITION OF OHIO BANKS, AUG. 3, 1857.

Resources	8 Indpt. Banks	10 Free Banks	36 State Branches
Specie .....	\$ 153,989	\$ 157,516	\$1,414,772
Other cash res.....	438,397	529,007	2,609,826
Bills discounted, state and U. S. bonds and other res.....	2,589,997	2,504,798	10,734,955
Total .....	3,172,384	3,191,320	14,759,553
Liabilities	8 Indpt. Banks	10 Free Banks	36 State Branches
Circulation .....	\$ 707,700	\$ 853,265	\$6,571,340
Due to banks and Indpt. Treasury...	1,009,373	1,057,711	3,089,948
Cap. stock and other liabilities.....	1,472,265	1,280,345	5,098,265
Total .....	3,172,384	3,191,320	14,759,553

RENEWED STRUGGLE OVER TAXATION.

After the failure of the savage act of March 14, 1853, to attain its purpose, there was evidently a sort of tacit compromise effected between the banks and the legislature, for in 1856<sup>111</sup> a clumsy act was passed which taxed the banks on their business instead of their property, although it endeavored to secure the results of the latter method. The important provisions of the act were as follows: Every bank must furnish the assessor with two statements: the first of the average amount of notes and bills discounted, moneys loaned, and all other property; the second of the capital, the undivided profits, and the amount of time deposits—these three added together shall be deemed the property employed in banking. The county auditor shall enter the first statement on the duplicate, and shall charge

<sup>110</sup>Gov. Mess., Jan. 4, 1858. *Exec. Doc.*, 1857, L. 354.

<sup>111</sup>April 1, 1856. 53 *O. L.*, 51.



thereon such rates of taxes as will produce the same sum as would be produced by charging on the property embraced in the second statement the average rates of taxation on the property of individuals for state and local purposes.

The rule thus laid down was very inconvenient in practical application, and afforded an opportunity for withdrawing a considerable amount of bank property from actual taxation, of which the banks were quick to take advantage.<sup>112</sup> The constitutional requirement that property employed in banking should be assessed equally with other property was thus set at naught, and it seemed as though the old policy of favoritism was to be revived.

A week later another act,<sup>113</sup> known as "Kelley's Bank Tax Law", was passed, providing for the taxation of those banks which had been chartered under the act of February 24, 1845. These "independent" banks and the State Bank and its branches must be taxed, according to their charters, on their profits; but this act provided for a different method in the case of those banks which consented to it. These banks were to furnish the assessor with a statement of their capital, surplus, and undivided profits; these were to be placed on the duplicate and taxed like other personal property; that portion of their capital, etc., invested in real estate already taxed was to be deducted. "Under this system, for two years, the banks were taxed without any serious objection on their part."<sup>114</sup>

During the fall elections of 1856 the pro-bank party came into power in the legislature, and the next session carried out a peace policy in the effort to get the banks to submit to taxation on their property at the general property rate for the state. First the "crow-bar" tax law of March 14, 1853, was repealed;<sup>115</sup> next it was provided that those banks which accepted the tax provisions of the act of March 23, 1850, should make returns to the county

<sup>112</sup>Gov. Mess. *Exec. Doc.*, 1857, I, 370.

<sup>113</sup>Act of April 8, 1856.

<sup>114</sup>Aud. rep., 1859.

<sup>115</sup>By act of Feb. 26, 1857.

auditor and not to the state auditor, and should be taxed in the county in which they were doing business.<sup>116</sup> A week later a comprehensive law was passed re-incorporating the Bank of Ohio and its branches.<sup>117</sup> The circulation was to be graduated according to the amount of capital stock paid in (about one and one-half times the capital on the average); provision was made for a ten per cent. safety fund; and a reserve equal to thirty per cent. of the circulation must be kept, of which at least half must be specie.<sup>118</sup>

But the constitution provided that "no act of the General Assembly, authorizing associations with banking powers, shall take effect until it shall be submitted to the people, at the general election next succeeding the passage thereof, to be approved by a majority of all the electors voting at such election." Accordingly this act was submitted to the people for their approval at the election on the second Tuesday in October, 1857, but failed to become law.<sup>119</sup> At the same time an amendment to the constitution, to tax banks separately and on different principles from the property of individuals, was submitted to popular referendum. It was worded, "Bank and individual taxation equal—yes [or no]". This seems like a shrewd framing of the question for the purpose of defeating it, and defeated it was.

This same election saw the victory also of the radical anti-bank party, and in the following session they signalized their return to power by the virtual re-enactment of the drastic act of March 14, 1853. The new law was entitled, "an act to tax the property of Banks and Bankers, so as to require all property employed in banking to bear a burden of taxation equal to that imposed on the property of other persons."<sup>120</sup> The officers of every bank were re-

<sup>116</sup>Act of April 8, 1857.

<sup>117</sup>Act of April 14, 1857.

<sup>118</sup>On Sept. 30, one week before the election, the State Bank and its branches resumed specie payments.

<sup>119</sup>*Exec. Doc.*, 1856, I, 438.

<sup>120</sup>Act of April 12, 1858.

quired under oath to return annually to the county auditor the average amount of notes and bills discounted, and the average amount of all other moneys, effects and dues of every description (deducting, however, the cash reserve). If taxes assessed under the act of April 13, 1852, were still unpaid the county treasurer was to demand them by leaving a written notice and if they were not then paid, together with a five per cent. penalty, in five days, he was authorized to seize the coin, securities, etc., of the bank; and to sell the same ten days after advertising them for sale. The other provisions of the earlier act were also re-enacted almost *verbatim*.

This was almost the last act in the struggle between the banks and the state.

The independent banks and the branches of the State Bank refused to pay taxes under this law, as they had under the law of 1853. They claimed that the section of the incorporation act of 1845, which prescribed the rule of taxation for them, was a contract, not liable to be impaired by subsequent legislative or constitutional provision; and that they were, therefore, not liable to be taxed by a different rule, however warranted by constitution or law in respect to institutions not similarly protected. This claim had been carried into the courts, and the Supreme Court of the state denied it, but it was sustained by the Supreme Court of the United States, to which an appeal was taken. A new tangle was now given the legal situation by a decision of the State Supreme Court in December, 1857, announcing its adherence to its original position.

It seemed as though the banks would escape taxation altogether. The state officers were bound by the decision of the state court and tried to enforce the collection of the taxes imposed by the law of 1857. But the banks, relying upon the decision of the Supreme Court of the United States, placed to the credit of the state, as previously, the taxes required by the act of 1845, and made no return for taxation under the later laws. In some in-

stances injunctions were obtained from the federal courts, restraining the state officers from the execution of the law. These injunctions and some defects in the law itself prevented any collection of taxes under it, while the law prevented the collection of the sums deposited by the banks in lieu of taxes under the act of 1845.

#### COMPROMISE.

In the face of this deadlock, the question was now definitely presented to the legislature as to whether they would have the claim of the banks to exemption contested again in the federal courts, or whether they would modify the act of 1858.<sup>121</sup> As the auditor wrote in 1859,<sup>122</sup>

The door is again open for an expenditure of some thirty or forty thousand dollars on the part of the state, if she sees fit to undertake it, in attempting to enforce against the banks the collection of a tax which has been repeatedly adjudicated and decided by the court to be unconstitutional and void.

The legislature, however, refused to acknowledge itself defeated and passed the general property tax law of April 5, 1859, which again provided for the taxation of banks on the basis of their property at the general rate of state taxes.<sup>123</sup> Bankers, brokers, and stock jobbers must report each year to the county auditor the average amount of notes and bills discounted, and the average amount of all moneys, etc., loaned, invested, or otherwise used with a view to profit, less the amount of the specie reserve on hand. The amounts returned "shall be taxed for the same purposes and to the same extent" that other personal property was taxed. Banks organized under the "State Bank of Ohio act" should have fifty per cent. penalty added in case of their refusal to make such statement (sec. 63). It will be noticed that the basis of taxation laid down in the law of 1858 was here restated. The banks again resisted and many of them secured injunctions restraining the assessment and collection of these taxes, so that the state

<sup>121</sup>Gov. Mess., Jan. 3, 1859. *Exec. Doc.*, 1858, II, 99.

<sup>122</sup>*Exec. Doc.*, 1859, II, 72.

<sup>123</sup>56 O. L., 175, §§ 60-68. 2 Swan and Critchfield, 1438.



obtained no revenues from these banks.<sup>124</sup> Four of the banks had accepted the provisions of the act of 1850, and claimed the right to pay taxes under that act.<sup>125</sup>

In view of the decision of the Supreme Court of the United States it seemed foolish to continue to try to club the banks into submission by penalties and threats. Accordingly the legislature at length changed the basis of taxation from property to a combination of capital and profits. The act of April 4, 1861,<sup>126</sup> taxing banks, provided that every bank should each year give the assessor (1) the amount of capital, (2) the undivided profits, (3) the amount of term deposits (i.e. not drawn on demand). The sum of these three were to be considered the property of the bank employed in banking, and were to be taxed as other property. Banks organized under the State Bank law of February 24, 1845, should make the same returns, but might deduct real estate already taxed. These banks must notify the county auditor of the acceptance of this form of taxation in lieu of that imposed by the act of April 5, 1859, if they should accept it.

Most of the banks accepted the provisions of this act, and paid their taxes under it from now on. Their back taxes they paid according to their charters, under the decision of the Supreme Court of the United States. As there was now practically nothing in controversy the suits against the banks were discontinued.<sup>127</sup> Additional pressure was brought to bear upon the few banks that had not agreed to the provisions of the act of 1861, by a clause in the act authorizing the banks to suspend specie payments, denying this privilege to those banks that did not agree to be taxed under the act of 1861.<sup>128</sup> Here at last was an effective weapon with which to compel obedience.

<sup>124</sup>Eighteen banks brought suit in 1861, twenty-one more in 1862. In January, 1862, a perpetual injunction was granted the banks.

<sup>125</sup>Aud. rep., 1860.

<sup>126</sup>*O. L.*, 1861, p. 59. This act amended that of April 5, 1859, repealing sec. 60-68.

<sup>127</sup>Rep. of Att'y General. *Exec. Doc.*, 1861, II, 251.

<sup>128</sup>Act of Jan. 16, 1862. 59 *O. L.* 3.

In November, 1860, the number of banks in Ohio, with their capital and circulation, was as follows:<sup>129</sup>

	Capital.	Circulation.
State Bank and 36 branches.....	\$4,104,500	\$7,403,959
Seven independent banks.....	632,264	575,685
Eleven free banks.....	1,124,600	655,243
Total .....	\$5,861,364	\$8,634,887

The banking system of Ohio had now finally been clearly defined by law, and was proving to be one of the best in the Ohio valley. It had been developed out of many trying and even disastrous experiences, and the bad features had been gradually eliminated. The charters of the State Bank and of the independent banks would expire on May 1, 1866, when all the banks of the state could be brought under the free banking law, which must be regarded as the proposed ultimate basis of the Ohio system at this time. The charters of the free banks did not expire until 1872. But before Ohio could finally work out her own system, the establishment of the national banking system introduced a disturbing factor, and profoundly altered the banking situation, not only in Ohio but throughout the Union. The period after the outbreak of the Civil War therefore introduces us to a new era in the history of banking and bank taxation in Ohio.

In 1858 Ohio adopted an independent treasury system.<sup>130</sup> Taxes were to be collected in coin or notes of those specie paying banks of Ohio which issued no notes under \$5—a virtual exclusion of Ohio bank paper.<sup>131</sup> After July 4, 1860, no notes under \$10 were to be received; after July 4, 1865, none under \$20. After 1872 nothing but

<sup>129</sup>Gov. Mess., Jan. 7, 1861. The governor noted that issues of foreign banks to an amount equal to the domestic issues circulated in Ohio, and prevented any increase of domestic circulation. Most of the foreign issues were of banks which had suspended specie payments in Pennsylvania, Maryland, Virginia, Missouri, and to a less degree of other states.

<sup>130</sup>Act of April 12, 1858.

<sup>131</sup>As the notes of the banks of other states were not forbidden, a large proportion of the taxes began to be paid in the notes of these banks. Gov. Mess. in *Exec. Doc.*, 1858, II, 96.

coin was to be used by the state.<sup>132</sup> In adopting this system Ohio, in common with a number of other states, was but imitating, though somewhat feebly, the example of the federal government, which had established its Independent Treasury system in 1846. Before the program indicated could be even partially entered upon in Ohio, however, the outbreak of the Civil War, the suspension of specie payments by the banks, the issue of the greenbacks, and the establishment of the national banking system prevented the execution of the plan, although the law remained on the statute books, to be revived possibly at some later date.

#### THE ORGANIZATION OF NATIONAL BANKS AND THEIR TAXATION

The banks of Ohio, together with those of Indiana and Kentucky, were the only ones in the country, with some scattered exceptions, which had not suspended specie payments by January 1, 1862.<sup>133</sup> But by the act of January 16, 1862, the Ohio banks were authorized temporarily to suspend specie payments, and to receive and pay out United States demand notes.<sup>134</sup> There was quite a struggle in the board of control of the State Bank as to whether they should permit that bank and its branches to suspend, but it was finally carried.

With the organization of the national banking system<sup>135</sup> the Ohio banks re-organized as national banks more promptly than those of any other state in the Union. The first annual report of the comptroller of the currency, of November 28, 1863, showed that of the 134 banks that had up to that time been organized as national banks, 38 were in Ohio, or almost double the number in any other state (20 each in Indiana and Pennsylvania were next).<sup>136</sup> The number of independent banks was reduced from eight at

<sup>132</sup>*Bankers' Magazine*, XII, 961. Quoted by Sumner, *Hist. of Banking in the U. S.*, p. 442.

<sup>133</sup>*Bankers' Mag.*, XVI, 650.

<sup>134</sup>*O. L.*, 1862, p. 3.

<sup>135</sup>By act of Congress of Feb. 25, 1863.

<sup>136</sup>*Bankers' Mag.*, XVIII, 617.

the beginning of the year 1863 to five in August, and the free banks from 13 to 10. The circulation of these two kinds declined from \$1,800,000 in January, 1863, to \$441,000 in November, 1865, and to \$189,000 in November, 1866.<sup>137</sup> Thus the forms of banking which had been developed in Ohio during the previous twenty years yielded to the national system. An act of March 16, 1865, prescribed the methods by which the "free banks" might retire their circulation and close up business.<sup>138</sup>

The State Bank with its thirty-six branches, whose charter expired on May 1, 1866, also prepared to wind up its business. On November 25, 1865, the president sent out a circular letter asking that all notes issued by this institution be immediately presented for redemption. At the same time they began the work of destroying the circulating notes as rapidly as they came in.<sup>139</sup> By November, 1866, the commissioner of statistics was able to report that "the banks of Ohio now consist of only two kinds, national and private banks." There were 88 private banks in the state, situated in forty-five counties (or just half of all), with an aggregate capital of \$2,743,664 or an average of about \$31,000.<sup>140</sup> In October of the same year there were 135 national banks in the state, with an aggregate capital of \$21,904,700, or an average of \$162,000, and outstanding circulation of \$18,000,000.<sup>141</sup> There were also \$98,410 state bank notes still outstanding.

With the reorganization of the Ohio banks under federal law the question soon presented itself as to whether the state could tax these banks. The auditor, in his report for 1863,<sup>142</sup> expressed the belief that the situation was the

<sup>137</sup>Treas. rep. *Exec. Doc.*, 1865, II, 40; 1866, I, 7.

<sup>138</sup>62 O. L. 51. The bank items of the Bankers' Magazine during this period are full of notices of changes of state into national banks.

<sup>139</sup>*Bankers' Mag.*, XIX, 763; XX, 590. The act to incorporate the State Bank of Ohio was not formally repealed until 1871. *Act of Nov. 10, 1866*, O. L., p. 396.

<sup>140</sup>Rep. Com'r of Stat. *Exec. Doc.*, 1866, I, 670.

<sup>141</sup>*Bankers' Mag.*, XXII, 537.

<sup>142</sup>*Exec. Doc.*, 1863, I, 60.



same as in the case of the branches of the Second Bank of the United States,<sup>143</sup> and that therefore the national banks could not be taxed by the state. Nevertheless the assessors proceeded to assess the value of shares in national banks in the hands of the owners, and to list them for taxation. Their right to do this was resisted by the shareholders on the ground that the capital of the banks was invested in United States government bonds, and as these were exempt from taxation the shareholders could not be taxed. Against this contention the new auditor held that the individual shareholders could be taxed on their shares, though the banks as such could not be taxed.<sup>144</sup> The legislature took the latter view and passed an act providing for the taxation of shares in the hands of the individual shareholders.<sup>145</sup>

As the banks and bankers still resisted the collection of these taxes,<sup>146</sup> the matter was carried up to the Supreme Court of Ohio, which held that the state had power to tax shares in the national banks located in Ohio, subject to the limitations that such tax should not exceed the rate imposed upon other moneyed capital of individuals, nor that imposed upon shares in the state banks.<sup>147</sup> The way now being cleared, the legislature passed a definite act "to provide for the taxation of bank shares and bankers."<sup>148</sup> All shares of stockholders were to be listed at their true value in money and taxed where the bank was located; real estate was to be taxed locally and deducted from the value of the shares. Each year the president and cashier were required to make out a list under oath of the stockholders and their shares, which was to be given to the county auditor. The shares were then to be entered on the duplicate and taxed to the shareholders; if they did not pay their taxes it was

<sup>143</sup>See above, p. 260, ff.

<sup>144</sup>Aud. rep., *Exec. Doc.*, 1865, I, 339.

<sup>145</sup>Act of April 2, 1865.

<sup>146</sup>Aud. rep., *Exec. Doc.*, 1866, I, 132.

<sup>147</sup>Frazier, *et al. v. Siebern, et al.* 16 O. S., Rep. 614. See 1 Sayler, *Ohio Statutes*, 795, note.

<sup>148</sup>Act of April 16, 1867. Swan and Sayler, 763; *O. L.*, 1867, p. 204.

made illegal for these shares to be transferred or to have dividends paid, as long as taxes and costs remained unpaid. But the banks were permitted to pay the taxes and deduct the amount from the dividends.

There had grown up, alongside the national banks, a large number of private or unincorporated banks, which up to this time had practically escaped taxation. This same act now provided for taxing them on their surplus. They were required each year to send a statement to the county auditor showing (1) the average amount of discounted notes, (2) the average amount of accounts receivable, (3) the average amount of cash, (4) the average amount of stocks, bonds, etc., (5) the average amount of real estate, (6) the average amount of deposits, (7) the average amount of accounts payable, other than deposits, (8) the average amount of government securities, (9) the amount of capital. From items 1-5 the auditor was to deduct items 6-8, and enter the remainder on the duplicate, where it would be taxed at the general rate of taxation.<sup>149</sup> That this was not altogether successful in subjecting the private banks to taxation seems to be indicated by the complaint of the governor a few years later that "it ought not to be possible, as it now is, for private bankers to do a very large business and yet only pay taxes on office furniture."<sup>150</sup>

No further changes were made in the legislation regarding bank taxation until 1876, when a state board of equalization of bank property was provided for, in accordance with a recommendation to that effect from the state

<sup>149</sup>This was amended by the act of April 17, 1881 (*O. L.*, p. 109), which provided that item 9 should consist of the value of all property not otherwise enumerated, and this was to be added to the remainder obtained by the method described above for purposes of taxation. By act of April 16, 1900, item 8 was defined as government securities exempt from taxation, and item 9 as the value of office furniture and other property not enumerated. The auditor was to subtract items 6-8 from items 1-5 and add 9, and to place the value so obtained on the duplicate to be taxed at the general rate. (*O. L.*, 1900, p. 347).

<sup>150</sup>Gov. Mess. *Exec. Doc.*, 1872, II, 570.

auditor. He pointed out instances of the shares of a national bank being assessed at \$161 in one county, while the shares of another bank in an adjoining county were assessed at only \$35.<sup>151</sup> By this act the state auditor, treasurer, and attorney general were constituted a board to equalize the valuation of bank shares for taxation, under the act of April 16, 1867.<sup>152</sup> This was amended the following year, however, and the board forbidden to add or subtract more than \$100,000 for any one county.<sup>153</sup> By the act of 1883 the constitution of the board was changed, and it was now made to consist of the governor, auditor, and attorney general.<sup>154</sup> In 1890 the law was extended to savings banks.<sup>155</sup>

The tax commission of 1893 concluded that the banks paid a larger proportion of their incomes to the state in taxation than any other class of corporations; they paid from 17 to 23 per cent. of their net income, while railroads paid only from 5 to 12 per cent. of their net earnings.<sup>156</sup> They described the system of taxation for incorporated banks as follows:

The state board of equalization for banks is required to meet on the third Tuesday of June annually at the office of the auditor of state and examine the returns of the banks to the county auditors and the value of shares as fixed by the county auditors, and has power to hear complaints and equalize the value of such shares, but shall not increase or reduce the grand aggregate value of bank shares as returned by the several county auditors by more than twenty per centum.<sup>157</sup>

In 1908 another tax commission described the system again, which remained the same as already set forth. By custom only sixty per cent. of the "book value" of their personal property is placed on the tax duplicate in the particular locality where the bank is situated, in order to

<sup>151</sup>Aud. rep., 1875, p. 67.

<sup>152</sup>Act of April 12, 1876. *O. L.*, p. 251.

<sup>153</sup>Act of April 12, 1877. *O. L.*, p. 191.

<sup>154</sup>Act of March 9, 1883. *O. L.*, p. 54. Re-enacted March 26, 1902.

*O. L.*, p. 71.

<sup>155</sup>87 *O. L.* 215.

<sup>156</sup>Report, p. 70.

<sup>157</sup>Report, p. 16.

make its property bear a burden relatively fair to other property in the community, and upon this amount the local and state tax rate is applied. Real estate belonging to the bank is not included in this calculation, for it is taxed as other real estate.<sup>158</sup> This same practice was followed by the permanent tax commission in 1910.<sup>159</sup> The last revision of the statutes of Ohio show the system of bank taxation today substantially as it was fixed in 1867.<sup>160</sup> A student of taxation in Ohio reaches the following conclusion regarding the taxing of banks:<sup>161</sup>

While Ohio has some of the worst tax laws in the Union, notably in assessing railroads, it is a great comfort to the writer to be able to boast that its law for the taxation of banks is as near perfect as can be made.

<sup>158</sup>Report of the Tax Commission of 1906, p. 12.

<sup>159</sup>First an. rep. Tax Commission of Ohio (1910), p. 6.

<sup>160</sup>*The General Code of the State of Ohio* (1910). §§ 5408-5411.

<sup>161</sup>N. W. Evans, *A History of Taxation in Ohio* (Cincinnati, 1900).



## CHAPTER VI

### HISTORY AND TAXATION OF RAILROADS.<sup>1</sup>

#### EARLY RAILROAD BUILDING.

The early history of railroads is nowhere better illustrated than by the experience of Ohio. Her peculiar position between the Great Lakes and the Ohio River, together with the situation of the passes through the Allegheny Mountains, have forced most of the artificial lines of communication between the East and the West to cross the state. From the first the people of Ohio have manifested the liveliest interest in the subject of transportation, and were prompt to see the advantage of railroads when this method of transportation was first suggested. Rich in its natural resources, Ohio was the mecca of emigrants from the states to the east. While the accessible sections on the banks of the Ohio River were first populated, the settlers soon pressed on to the interior counties of the state to territory equally rich in soil and timber. An enterprising people, eager for rapid growth and ambitious for the immediate development of the state's resources, they exhibited a liberal spirit towards all kinds of internal improvements.

With growth of population and increased production the need of a market became continually more pressing. The route down the Ohio and Mississippi rivers to New Orleans was never wholly satisfactory, and moreover did not afford an outlet for the interior settlements. State and county roads were built, generally to afford access to a navigable waterway, and in 1825 the canal system was begun. These ran north and south and connected the central part of the state with the Great Lakes or the Ohio River; in connection with the Erie Canal they now provided a through route to the Atlantic coast. Prices rose, production increased, and the population grew at a rapid rate. Their success fostered a spirit of enterprise among

<sup>1</sup>I desire to record my indebtedness, in the preparation of this chapter, to Mr. H. A. Clark, of Marquette, Mich., who, while a member of my seminar at Oberlin College, wrote a paper on this subject, of which I have here made liberal use.

the people and paved the way for the building of railroads.

Railroad construction was undertaken in Ohio by private enterprise. As the state had built the canals, its assistance was not expected in the building of what might become a competitor of the public works. The legislature, however, was liberal in granting charters to private companies, each of which was by special act. The first act to incorporate a railroad company in Ohio was that of February 23, 1830, granting a charter to the Ohio and Steubenville Railway Company. Although this road was never built, its charter is of interest, for it was the legislature's guide in drafting subsequent ones, and contained the provisions peculiar to early railroad charters. Like all of these, both in England and the United States, it provided for the use of the track by all shippers, who were expected to own their own carriages. Maximum rates of toll were prescribed for freight and passengers. The capital stock was limited to \$500,000, and the stipulation made that no part of it should be used in banking.<sup>2</sup> The right of eminent domain was also granted to the company. The following year a second charter was granted, and in 1832 there were ten. In January of this year there was already a standing committee on "Rail-roads" in the Ohio House of Representatives,<sup>3</sup> and bills were beginning to come in from prospective companies asking for acts of incorporation. In-

<sup>2</sup>That this provision was needed seems to be shown by the experience of the state with the Ohio Railroad Company in 1835. A provision in its charter read that "the funds of said company shall be paid out in orders drawn on the treasurer, in such manner as shall be pointed out by the by-laws of the company; and that all such orders for the payment of money so drawn shall, when presented to the treasurer, be by him paid and redeemed." Under authority of this clause the company began issuing notes and successfully put out a large circulation. The state granted a subsidy to the railroad and with this some of the notes were redeemed, but no work of a permanent character was done on the road, and upon its suspension a few years later (1842) the state lost all of the \$557,000 it had granted. Several hundred thousand dollars in worthless currency were left outstanding. Leland, "The Ohio Railroad". *Mag. of West. Hist.*, XIII, 744.

<sup>3</sup>*Ho. J.*, 1822, p. 307.

terest was rapidly growing; up to and including 1836 the general assembly granted fifty-six charters, but only five of these roads were actually built. These were the Mad River & Lake Erie, the Mansfield & Sandusky City, Little Miami, Columbus & Xenia, and Kalamazoo & Erie railroads.<sup>4</sup> Of these the last named was the first railroad actually built in the state, being finished in 1836, between Toledo, O., and Adrian, Mich., a distance of about 33 miles.<sup>5</sup>

The contrast between the large number of charters granted and the few roads built indicates clearly the speculative and even-visionary nature of many of these enterprises. On the scale on which they were projected they were certainly premature, and local capital was lacking to carry them through. Railroad construction was found to be a far more expensive and difficult undertaking than had been anticipated. It was difficult to enlist capital in a venture which gave promise neither of immediate nor large returns. Notwithstanding the general desire to obtain railroads, efforts to raise by stock subscriptions sufficient funds to construct the roads authorized were futile. In not a single case was sufficient stock subscribed to complete the road as planned.

Meanwhile the canals of the state had been built and opened to traffic, and were proving successful enterprises. The state had invested a large amount in their construction and did not wish to see the profits of the canals cut into by this new transportation agent. Moreover the policy of internal improvements was taken up again in 1835 on a more extravagant scale and further sums were desired for canal building. Rivalry sprang up between the canal and railroad interests of the state, which found expression especially in the charters granted to railroads. It was argued by the canal interests that it would be unwise for the state to imperil the financial success of the canals, in

<sup>4</sup>*O. L. L.*, v. 30, p. 15; v. 33, p. 387; v. 34, p. 204.

<sup>5</sup>Atwater, *History of Ohio* (1838), p. 279. See also R. S. Kayler, "Ohio Railroads", in *Ohio Arch. and Hist. Soc. Pub.*, IX, 189.

which it was itself so heavily involved, by allowing the construction of railroads which would become direct competitors and would undoubtedly make serious inroads on the income of the canals. This argument did not prevent the granting of charters, but it did secure the incorporation in some of them of a provision by which they agreed to pay to the state

such amounts annually as in the opinion of the Board of Public Works would be equivalent to one-half the tolls charged by the state at the time upon like property transported by canals during the season of navigation but for the existence of the railroad.

This provision proved later, however, to be of little value.

Since the stock subscriptions failed to secure the money needed to build railroads, the state next granted the companies, by new charters or amendments to the old ones, the right to borrow money, and to pledge their income and stock for its repayment. In most cases the amount to be borrowed was limited to the amount of stock paid in or subscribed, but often up to an amount not exceeding the authorized capitalization. Every effort was then made to increase the subscriptions and the authorized capital, so as to borrow larger amounts. There was present every inducement to speculation, the overstraining of credit, and even wilful misrepresentation and fraud.<sup>6</sup> Later charters or amendments gave the railroads power to pledge the income and property of the company, and in some cases the franchise, as security for money borrowed.

#### STATE AND LOCAL AID.

The railroads, however, were still unable to command sufficient means to build their lines, and what progress they were making was abruptly checked by the panic of 1837. But the people were interested and clamored impatiently for their construction. They wished a means of transportation that would not only afford an outlet for the products of the interior sections of the state, which were not reached by the canals, but which would also cheapen

<sup>6</sup>Rep. of R.R. Comm'r. 1857, p. 17, 1858.



transportation and reduce the time required to get produce to the market. As stock subscriptions and loans had not been successful in providing the necessary capital, state aid seemed the only other solution. Accordingly, in 1837, an act was passed providing for a loan of credit by the state to railroad companies, and a subscription to the stock of turnpike, canal and slackwater navigation companies.<sup>7</sup> In one form or another similar aid had been extended to railroad companies in other states, especially in the South.<sup>8</sup> The Ohio act provided that the state should loan its credit to railroads in 6 per cent. transferable stock, redeemable in twenty years, to the amount of one-third of the capital stock, provided that the other two-thirds had been actually paid in.

In order to insure the state against any loss through mismanagement of the companies or through fraud the act imposed certain restrictions and prescribed certain conditions which had to be complied with before the Fund Commissioners could issue the certificate of stock in their behalf, thus creating a state liability.

First, it was required that the Board of Public Works should have approved of the plan and estimated most of the road and have determined that the road would be of public utility, and further that within two years after its completion, it would in their opinion yield a net profit of at least two per cent., on the money invested in its construction and rolling stock.

Second, it was required that the Fund Commissioners be satisfied by the oaths of the officers of the company that subscriptions had been made to their capital stock, equal to two-thirds of the sum necessary to complete the road and fixtures, and that the company had vested and expended a sufficient amount of their capital to make the state secure in the sums to be advanced under the authority of the act.

Third, it was required that the Fund Commissioners

<sup>7</sup>Act of March 24, 1837.

<sup>8</sup>See Cleveland and Powell, *Railroad Promotion and Capitalization* (N. Y., 1909), chap. XV. The Ohio law is incorrectly stated (p. 217).

be also satisfied by the oaths of the officers of the company that it had actually expended in its construction and in the purchase of land for the same one-third of the capital stock subscribed.

Fourth, it was required that the Fund Commissioners be satisfied (by what kind of proof was not specified) that the stock subscriptions should be subscribed by *responsible* individuals or corporations.

Fifth, there was required a written pledge, duly executed under the authority of the president and directors of such company of the capital stock, estate, tolls, and profits of the company, to secure the re-payment of the sums advanced by the state.

Sixth, it was also required that the last mentioned pledge should be accompanied with such security as the Fund Commissioners might approve, for the faithful expenditure of the principal and the punctual payment of the interest.

In addition to these six prerequisites to a loan of credit under the law, the provision was also made requiring additional security if the security of the road and works be deemed inadequate by the Commissioners of the Canal Fund.

Under the provisions of this law the following aggregate sums were loaned to railroad companies in state scrip or stock:

The Painesville and Fairport Railroad Company (in one issue) .....	\$ 6,182
The Mansfield and Sandusky City R. R. Company (in three issues) .....	33,333
The Mad River & Lake Erie Railroad Company (in four issues) .....	270,000
The Little Miami Railroad Company (in three issues) .....	115,000
The Ohio Railroad Company (in four issues) .....	249,000
The Ashland & Vermillion Railroad Company (in two issues) .....	44,000
Total .....	\$717,515

The records of the canal fund commissioners show non-compliance with the law to have been the rule rather than the exception. In every case where a loan of credit was made at least one of the requirements stated above was violated. In some cases transfers of real estate were entered at fabulous prices, on the basis of which "paid-in subscriptions" the state loaned its credit; in some cases the board of public works did not pass upon the public utility of the road or its certainty of success; in some cases there was no adequate proof that a sufficient amount of capital had already been expended to secure the state in its loan. Railroad companies seeking state aid evaded the provisions of the law, and this evasion was possible because of the negligence of the canal fund commissioners. A few years later a commission appointed to investigate these transactions reported that the liabilities assumed by the state in aid of railroads were

created by reason of there not being bestowed upon those transactions the close attention to the law, and that degree of regard to economy and the public interest which were demanded by the importance of these transactions and the heavy amounts they involved.<sup>9</sup>

The burdens involved in this addition to the state debt, coming as they did in the midst of a period of industrial depression, together with the extravagance and fraud involved in these loans, led to the repeal of the loan law after an experience of three years.<sup>10</sup> Of the loans made by the state to railroads during this period three-fifths was lost. The Ohio Railroad was a gigantic fraud and utterly collapsed; the road was never built and the entire amount loaned and given to the road was wasted.<sup>11</sup> The Paines-

<sup>9</sup>Rep. of Spec. Com. to investigate. . . . Canal Fund Com'rs, Dec. 24, 1845.

<sup>10</sup>Act of March 21, 1840. Those roads which would have been entitled to loans of credit upon the faith of subscriptions to their stock prior to Dec. 1, 1839, were granted such loans after the repeal of the law. By virtue of this provision \$209,000 was loaned after this date.

<sup>11</sup>"When the Board of Public Works was authorized to sell the personal property of the Ohio Railroad Company in 1844 in order to realize something from the state's loan, subscription of stock, gift of

ville & Fairport railroad and the Ashland railroad were failures, the roads being abandoned, and the whole amount of state loans was sunk. In 1862 the state disposed of its holdings in the Little Miami railroad at par, and in 1866 it sold the stock of the other roads for a total of \$36,658. That is, in return for loans of \$717,505 the state got back a total of \$292,658.

The law of 1837 had provided for the prompt payment of the interest on the state's loans of credit, but the railroads had failed to meet these obligations. Consequently an act was passed in 1843 providing that certificates of stock should be issued by each company for the amount for which the state had become liable, together with the interest then due and unpaid.<sup>12</sup> By this time three of the railroads had failed, while the Mansfield road had met all its payments, and continued to do so. Of the other two railroads the Little Miami company issued additional stock at the time for unpaid interest to the amount of about \$7000; subsequent issues of stock and bonds in payment of dividends brought the total holdings of the state up to \$200,000 of stock and \$56,000 of dividend bonds on December 15, 1862, when they were sold for par. This was the only road which repaid the state for its original investment. The interest in the other two roads was held until 1866, when \$33,333 of stock in the Sandusky City Company was sold for \$583; the common stock of the Mad River Company, amounting now to \$395,000, was closed out for \$33,841, and preferred stock to the amount of \$4,588 for \$2,234.<sup>13</sup>

In addition to the state aid just described the rail-land and labor, which as a total amounted to \$557,750, it was reported that this property had disappeared at the dissolution sale in 1842, and they were able to find only one set of car wheels, one locomotive and one saw mill." W. F. Gephart, *Transportation and Industrial Development in the Middle West* (N.Y., 1909). P. 166, n.

<sup>12</sup>Act of March 11, 1843.

<sup>13</sup>The holdings of the state were sold by the Sinking Fund Commissioners to Rush R. Sloane, of Sandusky, by order of the general assembly in June, 1866.



roads received assistance in stock subscriptions and loans of credit from counties, townships, cities, and towns as well. The total authorized subscriptions down to 1851 granted by laws in which the sums were specified are given in the following table. Some laws were passed in which the amount of the subscription was not specified.

37 counties subscribed.....	\$4,173,000
55 townships subscribed.....	1,005,100
16 cities and towns subscribed.....	1,672,000

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Total subscriptions.....	\$6,850,100
1 county loaned credit of.....	92,500
1 city loaned credit of.....	600,000

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Total local aid.....\$7,542,600<sup>14</sup>

After the breakdown of the policy of state aid and the return of prosperity in 1846 the legislature granted freely to the local governments the power of subscribing to the stock of local railroads. Such subscriptions were usually made upon vote of the people. The early railroads were short local affairs, and it came to be regarded as a local question whether aid should be granted, and if so to what extent. The constitution of 1851 prohibited the state or any of the local divisions from loaning their credit or subscribing to the stock of works of internal improvement. While the grant of local aid was made in response to a pressing demand for better railroad facilities, the policy on the whole must be regarded as unwise. The stock subscriptions were generally made without due regard to business principles, and the funds thus secured were carelessly used. Practically all of the money thus loaned was lost, while on the other hand, many of the counties were still paying thirty years afterwards the principal and interest of bonds for roads that in some cases were not built or operated. But grave as were the abuses, it taught the

<sup>14</sup>Dr. W. F. Gephart, in his *Transportation and Industrial Development in the Middle West*, p. 167, estimates that the total amount of subscriptions by the state and local governments in Ohio was not less than \$40,000,000. To the present writer one-fourth of that sum seems a safer estimate.

people of Ohio some valuable lessons in railroad finance at a period when the roads were yet young and the experience consequently less costly than it might have been later. And the policy did have the good effect of facilitating the development of a much needed improvement.

#### TAXATION OF RAILROADS TO 1851.

The early policy of the state was to develop the railroads rather than to overburden them with taxation. However, provision had been made for the taxation of the railroads already built by charter stipulation that these railroads would be subject to taxation on their dividends when they exceeded 6 per cent. per annum. Of the four roads in operation in the state on December 15, 1851, but one—the Little Miami—had declared a dividend exceeding 6 per cent., and provision had been made for taxing it by listing its stock and dividends.<sup>15</sup> It was to be assessed on these to such an extent as would equal a tax levied on other transportation companies by the general property tax law. No general act taxing property had been passed since the beginning of railroad construction until the so-called “Kelley law” of 1846.<sup>16</sup> This required railroads to list for taxation the full amount of their capital stock paid in by individual shareholders at its true value in money. Stock held by counties and cities was exempt from taxation. They were also required to list for taxation all personal property, money, and credits, but were allowed to deduct their actual debts. It was the duty of the county auditor to assess the capital stock and other personal property of the railroads, and such taxes were to be collected, accounted for, and paid over, as were other taxes levied for state purposes. The early railroads whose charters contained provisions for their individual taxation were, of course, not affected by this act.

In 1848 was passed “an act regulating railroads”, which provided for the organization under a general char-

<sup>15</sup>Act of March 23, 1849.

<sup>16</sup>Act of March 2, 1846.

ter of all railroad companies.<sup>17</sup> The early idea that any person might use the road on condition of paying toll, was now given up, and the modern conception of the railroad as an essential monopoly was adopted. Provision was also made for borrowing money by the railroads. But any good road which availed itself of the privileges conferred by this act subjected itself to a change in method of taxation, and might hereafter be taxed according to the act of 1846 instead of its charter provisions. Any company thus taxed was required to make an annual report to the auditor of state, showing the amount of its capital stock, the gross amount of its tolls or receipts during the previous year, the cost of repairs and incidental expenses, the net amount of profits and dividends, with such other facts as might be necessary to a full statement of the affairs and condition of the road.<sup>18</sup>

Few of the roads having charter provisions governing taxation availed themselves of this act of 1848. The Mad River and Lake Erie Railroad was the only one that had paid a tax on its dividends, the majority of the roads failing not merely to pay any taxes but even to send in reports. State officials were lax and little effort was made to enforce the law. Accordingly in 1851 a somewhat more definite attempt was made to reach the railroads which were escaping taxation.<sup>19</sup> Railroads were divided into two classes: those having special charters providing for their taxation when dividends exceeded 6 per cent.; those whose charters made no provision for taxation. Railroads in the second class were required to list their paid-in capital stock, on which they were taxed as provided in the law of 1846. Those in the first class were required to report their dividends to the state auditor within ten days after the dividend was declared; if they declared more than the maximum allowed without being taxed the auditor was instructed to draw

<sup>17</sup> Act of Feb. 11, 1848.

<sup>18</sup> An abstract copy of these reports may be found in the annual reports of the auditor during this period.

<sup>19</sup> Act of March 25, 1851.

upon them for 6 per cent. of the dividends of the previous year. The personal and real property used exclusively for corporate purposes was exempted from taxation. This legislation was short-lived, for it was soon changed by the adoption of the constitution of 1851.

In 1850 only four or five roads were completed and opened to traffic, with a length of less than 300 miles, though work was proceeding on eleven others.<sup>20</sup> After the first outburst of activity new enterprises were not projected on so lavish a scale. In the four-year period 1837-40, during the operation of the loan law, 20 charters were granted. The effect of the industrial and financial depression is clearly seen in the period 1841-45, when only 13 roads were chartered, but with the succeeding revival the number increased to 61 in 1846-50. In 1851 the constitutional convention met, and it became evident that strict provisions would be framed concerning railroads, banks, and other corporations. There was consequently a rush for new charters or amendments to old ones. The legislature in their single session passed 21 acts to incorporate railroads, 29 acts amending previous incorporation acts, and 36 acts authorizing counties, cities, towns, or townships to subscribe to stock. All the charters and amendments to charters contained authority to borrow money. The doors were thrown open as wide as possible to enable the railways to borrow money and procure stock subscriptions. An act was also passed permitting the consolidation of continuous lines.<sup>21</sup>

The adoption of the constitution this same year put an end to legislative activity of this sort and rendered many of these acts obsolete. It prohibited local governments from subscribing, raising money for, and loaning their credit to any joint stock company, and forbade the general assembly from passing any special act conferring corporate

<sup>20</sup>Rep. Com'r of Railroads and Telegraphs. *Exec. Doc.*, 1868, II, 275-324. This report gives a brief history of railroads in Ohio, chiefly on the side of their physical development and legislative treatment.

<sup>21</sup>Act of March 3, 1851.



powers.<sup>22</sup> This latter section was made effective the following year by the passage of a general incorporation act for all kinds of companies, corporations, and societies.<sup>23</sup> The good effects of such a law is evidenced in the fact that during the session of 1852 only twenty-four local acts were passed, mostly concerned with county and township affairs. The taxation of railroads, as of all other corporate property, was regulated by two sections in the new constitution, which required the taxation of all property in accordance with a uniform rate at its true cash value, and that corporate property should be forever taxed like the property of individuals.<sup>24</sup>

Appropriate legislation was soon passed to enforce those provisions.<sup>25</sup> It was provided that every canal, turnpike, insurance, bridge, telegraph, and other company "shall list for taxation at its actual value, its real and personal property, moneys, and credits within this state." Property was to be returned to the auditor of the counties in which it was situated, and moveable property apportioned *pro rata* according to the value of the fixed property. All property so listed should pay all local and state taxes. The auditor now proceeded energetically to enforce the law and to collect taxes from the railroads.<sup>26</sup> He notified the county auditors to assess the railroad property upon their own estimate if the officials failed to file a statement. Railroad officials challenged the legality of the tax law, asserting that their charters guaranteed them "reasonable" taxes. But they soon acquiesced in the determination of the legislature and the state officials to tax their property in the same manner as that of individuals and never opposed the tax laws the way the banks did.<sup>27</sup> In the two years 1852-3 the assessed valuation of railroad property in

<sup>22</sup>Art. VIII, sec. 6, and Art. XIII, sec. 1.

<sup>23</sup>Act of May 3, 1852.

<sup>24</sup>Art. XII, sec. 2, and Art. XIII, sec. 4.

<sup>25</sup>Act of April 13, 1852.

<sup>26</sup>The auditor was John Woods.

<sup>27</sup>See ch. V, p. 283.

the state was increased from \$8,945,571 to \$17,591,894, an increase of 96 per cent.; large as this increase was, the auditor asserted that the assessment did "not yet place it upon the duplicate at its full cash value."<sup>28</sup>

#### REGULATION AND TAXATION, 1850-1866.

During the decade 1850-60 railway building in Ohio progressed more rapidly than in any other state in the Union. Chicago and the Mississippi and Missouri rivers were reached during this period, and through connections established between the Atlantic seaboard and the grain states of the Middle West. As Ohio was the gateway through which all these lines were compelled to pass, every increase of harvest in the West or of trade and manufactures in the East increased the traffic on the Ohio lines. As early as 1854 Ohio had more miles of railroad than any other state in the Union, namely 2367; by 1857 the mileage had grown to 2844, built at an estimated cost of \$90,000,000.<sup>29</sup> They now reached every county of the state except eleven,<sup>30</sup> and there were already three or four roads whose main business was the carriage of coal and iron.<sup>31</sup> At the beginning of the decade they began to compete actively for traffic with the canals, which they overtook about the middle, and completely outdistanced by the end of the period.

As an evidence of the growing importance and extent of the railway system may be cited the fact that an act of 1856 authorized the consolidation of railroad companies in Ohio with railroad companies of states adjoining.<sup>32</sup> The consolidations that created the great trunk lines out of a series of unconnected links had now commenced.

With consolidation went rate wars and discrimination on the part of rival roads. These occurred not merely be-

<sup>28</sup>Aud. rep., Feb. 12, 1853.

<sup>29</sup>Gov. Mess. *Exec. Doc.*, 1857, I, 351.

<sup>30</sup>Aud. rep., 1853.

<sup>31</sup>Rep. Com'r of Stat. *Exec. Doc.*, 1860, II, 458

<sup>32</sup>Act of April 10, 1856.

tween competing railroads, but also between the railroads and the canals. The legislature passed several futile acts against the latter, and in 1861 endeavored to regulate the former by the passage of the "equalization act."<sup>33</sup> This required every trunk railroad that connected with two or more railroads at or near the same place to carry all passengers and freight from such roads and to charge no more to one railroad than to another. Another section imposed a penalty of three times the amount of the freight charges if a railroad diverted freight from the road over which it had been ordered to be conveyed by the shipper. Evidently modern railroad practices had an early origin.

Comparatively little of the capital invested in railways was furnished by citizens of Ohio. In 1859 the commissioner of statistics referred to the common idea that most of the railroad bonds were held in Europe, which he considered a mistake.<sup>34</sup> Of the bonds issued by fifteen railroads in Ohio he calculated that \$10,000,000, or one-third, were held in Europe, and \$23,000,000 in the United States, which was probably typical of all the railroads. But the bonds held in Europe were the best ones, chiefly first and second mortgage, while those owned in this country were largely third mortgage and income bonds, which were consequently not so well secured. An interesting statement, in view of subsequent assertions as to stock watering and overcapitalization, was the following: "probably not over two-thirds of the nominal cost of our roads is represented by money."<sup>35</sup>

Tax evasion was as characteristic of the railroads during this period as was discrimination, and only meager tax reports were made to the auditor. In 1859 a general tax law was passed, of which one section dealt with rail-

<sup>33</sup>Act of April 11, 1861. *O. L.*, 1861, p. 74. For an account of the discrimination practiced by the railways against the canals, see a forthcoming monograph on Internal Improvements in Ohio.

<sup>34</sup>*Exec. Doc.*, 1859, I, 791.

<sup>35</sup>*Ibid.*, p. 793.

road taxation.<sup>36</sup> By this act the officers of any railroads, canal, bridge, insurance, telegraph, or other joint stock company except banking, were required to list all the personal property of their company at its actual value with the auditor of the counties in which the property was situated. The value of the rolling stock and movable property was prorated to the various townships and cities according to the value of the real estate in them. All property so listed was to pay the same taxes as other property. If the county auditors believed that the reports contained false or incorrect valuations they were required to make a correct appraisal and to substitute the same for that filed by the railroad companies.

Under this act each railroad was valued and listed by its own officers according to their own rules or opinions, and, even with the sincerest purpose to act fairly, great inequality prevailed in the amounts returned by the different roads.<sup>37</sup> And there was no adequate power in any public officer or board to correct this, in spite of the authority given the county auditor, for he was quite unable to deal with a large corporation. This led to a recommendation from the governor that a board of assessors be created for the purpose of assessing each railroad for taxation, to consist of the several county auditors of the counties through which the roads passed.<sup>38</sup> The following year the legislature passed an act embodying this suggestion.<sup>39</sup>

The act of 1862 was an important one and with slight modifications governed the appraisal of railroad property in Ohio until 1910. It constituted the county auditors of the counties through which a railroad ran a board of appraisers and assessors for such railroad. They were to ascertain

<sup>36</sup>Act of April 5, 1859, § 16. 2 Swan and Critchfield, 1438. Personal property was defined to include "roadbed, water and wood stations, and such other realty as is necessary to the daily running operations of the road, moneys and credits of such company or corporation."

<sup>37</sup>Aud. rep. *Exec. Doc.*, 1861, II, 26.

<sup>38</sup>Gov. Mess. *Exec. Doc.*, 1861, I, 481.

<sup>39</sup>Act of May 1, 1862. *O. L.*, 1862, p. 88; Swan and Sayler 766.



the value of the personal property of the road (defined as in the previous act), and apportion it among the counties according to the value of the real estate.<sup>40</sup> They might require from the officers of any road a statement under oath as to the property, business, etc., of such road; and officers of roads refusing to appear before the board of appraisers, or to submit books, etc., should be judged guilty of a misdemeanor and might be punished by imprisonment up to thirty days and fine up to \$500. The procedure of the board was also carefully defined.

The auditor of a county in which a railroad had its principal office, or (in case the principal office was in some other state) the auditor of the county having the largest city upon the road, was president of the board. It was his duty to arrange the time and place of meeting, and to notify the other members of the board at least five days before the time appointed for the meeting. Provision was made for carrying on the business of the board in case of the absence or disability of the president. One of the members was to be appointed secretary and a full record of the minutes of the proceedings must be kept.<sup>41</sup> If the

<sup>40</sup>By act of April 14, 1863, the term "personal property" was enlarged so as to include also the undivided profits, reserved or contingent funds, in whatsoever way they might be invested. A subsequent act further included under this head locomotives and cars not belonging to the company, but hired for its use or run under its control by a sleeping car or other company. For the convenience of railroads this property might be listed and valued separately from its own property by the board of appraisers, but it was required that this valuation should be included in the aggregate valuation.

<sup>41</sup>These provisions as enacted in 1862 still govern the procedure in the board, but in the last respect they have been made more specific by the act of April 30, 1891. This act enumerated what the minutes of the county auditors' board should contain—that they should consist of a full and complete record of the votes of each member of the board; that the valuation of the property should be made only on motion offered and duly seconded, and that on all such motions the yeas and nays should be called and each member's vote should be recorded by the secretary; that immediately after the board's adjournment the secretary should make a complete record of all the transactions of the proceedings of the board,

president of the board failed to call a meeting before the second Tuesday in May, the several county auditors were empowered to meet on that day in the proper place and proceed to ascertain all the personal property of the railroad under consideration.

The boards of railroad appraisers and assessors were soon supplemented by a state board of equalization for railroads, composed of the state auditor, treasurer, and attorney general.<sup>42</sup> At an annual meeting to be held the last Wednesday in July at the office of the auditor, complaints were to be heard and the property of railroads equalized. The law empowered the board to increase or reduce the valuations placed on individual railroads, but not to reduce the aggregate valuation below that returned by the county boards of appraisers.<sup>43</sup> There was evidently more fear of evasion of taxes than of injustice to the railroads. In practice the state board has changed the valuations made by the county boards but slightly. The following table shows the results of the board's work for five year intervals since its creation, and may be taken as typical (000 omitted) :

and set forth therein the names and official capacity of the officials of the railroad present at the meeting just held; and that a certified copy of the proceedings, signed by the president and secretary, should be forwarded at once to the county auditor of each county constituting the board, and the same should be recorded in a book kept in the county auditor's office, subject to the inspection of any person during office hours. The tax commission act of 1910 changed this system. See below.

<sup>42</sup>Act of April 11, 1865. *O. L.*, 1865, p. 110.

<sup>43</sup>This original law has been but slightly modified. The date of the annual meeting has been changed to the first Wednesday after the tenth day of June (Act of April 2, 1866). The boards of county appraisers were required to send immediately after their adjournment to the board of equalization all the reports of the various railroad officers and such other information as the state board might require (Act of March 10, 1867). The office of commissioner of railroads and telegraphs was created the same year, and this official was made a member of the board of equalization (Act of April 5, 1867).

Year.	Value as fixed by Co. boards.	Addi- tions.	Deduc- tions.	Value as fixed by state b'ds.	Changes.
1866.....	\$ 48,817	\$886	\$679	\$ 49,024	2 add. 3 ded.
1871.....	64,545	785	453	64,877	7 add. 2 ded.
1876.....	83,917	397	184	84,129	3 add. 3 ded.
1881.....	83,597	828	661	83,764	6 add. 3 ded.
1886.....	89,273	215	172	89,316	4 add. 3 ded.
1891.....	104,954	398	457	104,896	7 add. 7 ded.
1896.....	104,984	67	35	105,015	3 add. 2 ded.
1901.....	116,891	379	376	116,894	6 add. 4 ded.
1906.....	148,066	...	6	148,060	0 add. 1 ded.
1907.....	152,403	...	...	152,403	0 add. 0 ded.
1908.....	156,096	...	...	156,096	0 add. 0 ded.
1909.....	156,783	...	...	156,783	0 add. 0 ded.

This method of assessing railroads did not long go unchallenged, and the criticisms made at the beginning have been constantly reiterated down to the present time. The auditor in 1864 objected that the county auditors "are wholly unacquainted with the value of this species of property; they are more or less subject to local influence. . . . The result is, some roads are appraised too high, and some too low."<sup>44</sup> And two years later he again criticized the work of the county boards, "who know little, if anything, of the value of that species of property. We should have direct returns under oath to the state board of equalization."<sup>45</sup> Fuller criticism of this plan may, however, be reserved till later.

#### CONSTRUCTION AND TAXATION AFTER THE CIVIL WAR.

After the phenomenally rapid railroad building that took place in Ohio during the fifties, the growth of the railway net proceeded more slowly. On July 1, 1867, the total mileage in the state was 3,877. Consolidations were also taking place and the railway service for through traffic was being greatly improved.<sup>46</sup> Competition of the trunk

<sup>44</sup>*Exec. Doc.*, 1864, I, 225.

<sup>45</sup>*Exec. Doc.*, 1866, I, 134.

<sup>46</sup>First an. rep. Com'r of Railroads and Telegraphs. *Exec. Doc.*, 1867, I, 357.

lines was but intensified by these changes, and discrimination in rates was generally practised. An effort was made to end this by the passage of a "long and short haul" act in 1871, which forbade railroads "to charge or receive for transportation of freight for any distance in this state, a larger sum than is charged by the same railroad for the transportation of freight of the same class or kind, for an equal or greater distance."<sup>47</sup> The penalty for infraction of this law was the forfeiture to the aggrieved party of double the amount of the overcharge, with a minimum of \$25. The act was primarily designed to prevent excessive charges for local freight, which seemed out of all proportion when compared with the long-distance charges, which competition was rapidly bringing down. Between the years 1869 and 1881 the number of tons moved one mile in Ohio grew from 739 to 3682 million, while the ton-mile rate decreased from 2.446 to .915 cents.<sup>48</sup> It was estimated that there was saved to the shippers over \$337,000,000, being the difference between the actual rates and those of 1869; for the same period the total taxes of Ohio amounted to \$316,000,000. Unfortunately for the implied argument, the savings on through transportation charges did not go into the pockets of Ohio tax-payers, or but to a slight extent.

The law of 1871, moreover, did not affect its purpose of reducing local freight charges and of preventing discrimination. The commissioner of railroads and telegraphs directed attention to a large number of "clear and palpable violations of the law" by railroad companies. In relation to rates prescribed by law for the transportation of persons and property he said,

there is not a railroad operated in the state, either under special charter or the general law, upon which the law regulating rates is not in some way violated nearly every time a regular passenger, or freight, or mixed train passes over it.<sup>49</sup>

<sup>47</sup>Act of April 26, 1871. *O. L.*, 1871, p. 78. This awkwardly worded act was re-enacted two years later in much improved phraseology. Act of March 11, 1872. *O. L.*, 1872, p. 27.

<sup>48</sup>Ringwalt, *Transportation Systems in the U. S.*, p. 245

<sup>49</sup>Quoted in Gov. Mess. *Exec. Doc.*, 1871, II, 105.



In subsequent reports the commissioner turned apologist for the railroads. During the eight years 1868-75 the taxes paid by the railroads of Ohio amounted to 2.988 per cent. of their gross earnings in the state. The commissioner pointed out that in those states where railroads were taxed on the basis of their annual incomes, the rule was to take 3 per cent. of the gross income as the value of the road for taxation; he concluded therefore that the Ohio railroads bore their fair share of taxation.<sup>50</sup>

In 1872 the legislature passed an extraordinary law, known as the "Boesel law", which authorized "counties, cities, incorporated villages, and townships to build railroads, and to lease and operate the same."<sup>51</sup> There was an immediate rush on the part of these local units of government to avail themselves of the right to build railroads, and within seven months bonds to the amount of \$2,685,050 had been deposited with the treasurer of state for this purpose;<sup>52</sup> by December 23 the local indebtedness under the Boesel law was \$3,177,000.<sup>53</sup> The following year the state supreme court held the act unconstitutional, as it contravened section 6 of Article VIII, but before that the bonds deposited had amounted to over \$6,000,000.<sup>54</sup> This activity certainly evidenced the existence of a widespread demand, particularly on the part of the smaller towns and villages, to secure better railroad facilities. While the method outlined by the Boesel law was extremely ill-advised, it yet met with an immediate popular response. Today the need then made apparent has been met successfully by the building of electric interurban lines, which afford the needed facilities to towns neglected by the steam roads.<sup>55</sup>

<sup>50</sup>Reports. *Exec. Doc.*, 1874, I, 791; 1875, I, 894.

<sup>51</sup>Act of April 23, 1872.

<sup>52</sup>Aud. rep. *Exec. Doc.*, 1872, II, 325.

<sup>53</sup>Gov. Mess., Jan., 1873. *Exec. Doc.*, 1872, II, 557.

<sup>54</sup>Rep. Com'r of RR. and Telegr. *Exec. Doc.*, 1873, I, 782.

<sup>55</sup>See my article on "Interurban Railways in Ohio", in the *Journal of Political Economy*, May, 1907.

Meantime the methods of appraising and taxing railroad property laid down by the laws of 1862 and 1865 had remained unchanged in spite of criticisms. The system of local assessment by boards of county auditors resulted in an undervaluation of railroad as compared with other property, as well as unequal treatment of different railroads. Between 1878 and 1892 the changes in the taxable valuation and the gross receipts of three of the most important Ohio railroads was as follows:<sup>56</sup>

Railroad.	Year.	Valuation.	Gross Receipts.
Lake Shore and Mich. So.....	1878	\$12,996,609	\$13,505,159
	1892	12,457,745	22,415,382
Cleveland and Pittsburg.....	1878	5,731,000	2,272,166
	1892	4,495,000	3,429,278
Pittsburg, Fort Wayne and Chicago...	1878	10,732,001	7,830,000
	1892	10,525,948	11,659,142

#### EXCISE TAXATION, 1893-1911.

In 1893 a tax commission was authorized by the legislature<sup>57</sup> and appointed by the governor, "to thoroughly investigate the whole subject of taxation in the state", among which the taxation of railways came in for its due share of attention. The commission concluded that the true value of the railroads in the state could most justly be estimated by capitalizing the net earnings at 6 per cent. Upon this basis they found the true value in Ohio of the two first roads named above to be, respectively, \$32,598,273, and \$16,031,438.<sup>58</sup> From these and other facts they concluded that the railways of the state paid taxes upon a valuation of from 25 to 30 per cent. of their real value, while other property paid on a valuation of about 50 to 60 per cent. The total assessed value of railways was only \$105,000,000, while that of horses alone was \$47,000,000, or almost half as much. It was evident that, from whatever

<sup>56</sup>Rep. Tax Commission, 1893, p. 52.

<sup>57</sup>Jt. Res. Gen. Ass., June 19, 1895.

<sup>58</sup>Rep., p. 55.

point of view the subject was studied, the railways were paying less than their fair share of taxes to the state. To remedy this, it was suggested that a franchise tax be levied, in addition to existing taxes, based upon the gross earnings within the state.

Acting upon this advice the general assembly the following year imposed an excise tax of one per cent. on the capital of sleeping car companies, estimating the capital in Ohio according to the proportion in the state of the total lines over which the cars ran.<sup>59</sup> In 1895 a similar excise tax of one-half of one per cent. was exacted of all railroads in the state, based upon that proportion of the gross earnings which the mileage within the state bears to the total mileage. This tax was increased in 1901 to one per cent. The interurban electric railways, which had developed very rapidly in the previous half decade, were by an act of 1904 to be assessed in the same manner as steam railways, that is by the auditors of the counties through which they passed acting as a board of appraisers and assessors.<sup>60</sup>

A vigorous protest was made in 1901 before the state board of equalization under the leadership of Tom L. Johnson, mayor of Cleveland, against the inequalities in railroad taxation. A carefully prepared brief was presented showing that the railroads of Ohio were appraised for valuation at only 21.9 per cent. of their market value, and that even with the excise tax of one-half of one per cent. the rate of taxation per \$1000 was only \$2.36 for the railroads in comparison with an average rate of \$2.45 on all other property.<sup>61</sup> A strong effort was then made to secure an increase by the board of equalization in the aggregate valuation of railroads. Attorney General Shields maintained, however, that the board had no legal right to increase the total appraisement made by the county boards

<sup>59</sup>Act of May 21, 1894. *O. L.*, 1894, p. 408; Laning's *Rev. Stat.* (1906), sec. 4126.

<sup>60</sup>Act of April 25, 1904. *O. L.*, 1904, p. 572.

<sup>61</sup>Report of Prof. Edward W. Bemis on the *True Value of Ohio Railroads for the Purpose of Taxation*. Privately printed (Cleveland, O.). P. 1.

of appraisers. The railroads also filed a reply in which they asserted that the state board of equalization was appointed merely to equalize the appraisals made by the county boards, and that if they increased the aggregate valuation they ceased to be a board of equalization and became one of original appraisement. The right of the state board of equalization to alter the aggregate valuation has, as a matter of fact, never been established by any decision.<sup>62</sup> Although this effort failed, the excise tax was doubled this year by the general assembly, thus compensating for the low local assessments.<sup>63</sup> As a result of the agitation and publicity moreover several of the county auditors refused, under political necessity, to receive passes from the railroads which they were sworn to assess at their "true value in money." The methods and conditions under which the work of assessment were usually carried on are so well described in the following typical account that it is quoted at length:<sup>64</sup>

The Cleveland end of the county auditors' annual entertainment by the steam railroads is over until another year. Yesterday another board of county auditors paused long enough in the round of pleasure occasioned by their Cleveland trip to appraise the Lake Shore Railroad. When this was done, the transaction requiring only a little more than an hour to accomplish, the last board of railway assessors to meet in Cleveland this spring adjourned.

When the auditors composing the board met about a half hour after their adjournment yesterday it was not on business that they were bent.

<sup>62</sup>The dictum of the attorney general and the *caveat* of the railroads both seem to the writer unwarranted in law, for the act creating the state board of equalization provided only that they should not *reduce* the aggregate valuation originally made by the county boards, thereby giving them authority, by implication, to raise the aggregate valuation.

<sup>63</sup>In spite of the low local assessments, the taxes per mile of line in Ohio were exceeded in 1900 by those of only nine other states, of which seven were in the East, the other two being Indiana and Illinois. Professor Bemis, in his Report, based his contention of the undervaluation of the Ohio railroads upon a comparison with the two neighboring states. The taxes were \$304 per mile in Ohio, \$374 in Illinois, and \$403 in Indiana. Cf. *Interstate Commerce Commission Report*, 1900, p. 97; Seligman, *Essays in Taxation*, p. 142.

<sup>64</sup>Cleveland Plain Dealer, May 21, 1904.



It was to do full justice to an ample banquet tendered by a grateful railroad to its late judges. It took longer to dispose of this part of the day's business than to appraise a railroad worth, according to its own tax return, \$14,500,000 and, according to Prof. E. W. Bemis, between \$60,000,000 and \$90,000,000. Bemis was denied a hearing, however.

One of the brightest spots in the life of the average auditor is when he rides to Cleveland or some other city, on transportation abundantly provided by a generous and expectant railroad company, to fix by his vote the amount of taxes which that railroad will pay during the ensuing year.

"What can we do?" asked a rural auditor yesterday. "The minute we strike town the railroad has a man on hand to meet us and show us around. And does a railroad know how to show a man a good time? Well, I guess so. They're princes, that's what they are. Everything the very finest, too. I don't think I'll be able to eat anything now for a week."

The meeting at which this auditor assisted in valuing the company whose powers of entertaining he praised so highly, was held this week. The auditor arrived in Cleveland on the evening of the day before the meeting. That night he, accompanied by a number of fellow visiting auditors, was taken in tow by the agent of the railroad to assess which was the common errand of them all. The agent was a good fellow. So were the auditors. Dinner, the theater and an evening of pleasant entertainment, such was the study and preparation given by the auditors to the work expected of them as public officials the next day.

"What do we know of the value of different styles of locomotives, or the depreciation which rolling stock suffers by a year of usage?" quoth the auditor, who happened to be a most competent and intelligent public official and one whose word on the value of farming implements or the respective merits and demerits of different breeds of cattle is worth its weight in gold in his own community. "The railroad gets us all here; we are up against a problem with which we are utterly incapable of wrestling. What do we do? Why, what can we do? The railroad company says a certain thing is so and so, and, unless we happen to know otherwise—which is a very rare occurrence—we take their word for it. All we know when we sit down there to appraise a railroad is what the company's agent has been pouring in our ears. He has shown himself to be straightforward and generous in his dealing with us and his word is all we have. Generally it goes."

At the close of the meetings, to appraise the road, and the meetings never last over two hours, after Auditor Wright has hurled a few farewell shots at his colleagues, the auditors hasten to a hotel, where there is a 'steen course dinner. In the evening this is repeated and there are smokers galore. In the case of one railroad assessed this week, the evening's entertainment was furnished by the company at one of its private cars which was side tracked conveniently in the down town yards.

The series of meetings just closed has been marked by one distinctive feature. This is the fearlessness which several auditors showed in voting for large increases. In not a few instances substantial boosts to railroad's valuation have been almost carried, a very small majority alone defeating them. In one or two cases a tie vote has defeated a motion to increase the company's return. Several auditors have consistently voted at all the meetings they attended for every proposition to increase which came before the board. In many cases petty differences between various auditors have prevented additions which various auditors wanted to go through for the benefit of their particular counties.

But anyway, the auditors, with the exception of a few like Auditor Wright of this county, who objected to being made the recipients of small gratuities by the railroads, have all had a real good time, a pleasure outing, and a round of enjoyable experiences.

The increased agitation and interest in the subject of taxation led in 1906 to the appointment of a second tax commission to investigate the existing system and recommend changes.<sup>65</sup> Among the recommendations made was a simpler and more modern method of taxing public service corporations, such as by gross receipts or other special charge, in lieu of all other taxes, which will more effectively and uniformly reach franchise values and be substituted for the complex, diverse and inadequate methods now prevailing in Ohio.<sup>66</sup>

This was secured in 1910 by the creation of a permanent tax commission, to which was given the duty of assessing the public service and other corporations in the state.

Their most important function, for the present at least, is to consist in the assessment of railroads, express, telegraph, and telephone companies, sleeping car, freight line, and equipment companies, and other public utilities, which had previously been assessed by a number of special boards. For instance, railroads had been assessed by the county auditors, and the others by state boards; the taxes on public service corporations had been collected by the auditor, the excise tax on other corporations had been collected by the secretary of state, and other taxes had been paid to the state treasurer. All the machinery for the assessment of these various taxes is now concentrated in the hands of

<sup>65</sup>The commission was appointed on Sept. 21, 1906, and made their report on Jan. 10, 1908.

<sup>66</sup>Report, p. 45.

the tax commission, while all taxes are to be paid directly to the state treasurer.

After the value of the property of public service corporations is assessed by the commission, the valuations are apportioned to the local taxing districts in which they are situated. In the case of express, telegraph, and telephone companies, the value of their property is to be determined by the value of their capital stock in accordance with certain rules; from the value so determined is to be deducted the value of real estate already taxed. In the case of other public utilities "all the personal property thereof, which shall include all real estate necessary to the daily operations of the public utility and money and credits within the state" is to be assessed by the commission, and in addition detailed statement of the various kinds of tangible property must be made by the corporations.

At the same time that the machinery of assessment was simplified and unified, the principle of differentiation was introduced in the taxation of corporations. Previously all the public service utilities had paid the same excise tax of one per cent. of their gross receipts earned within the state; this large class was now broken up into smaller groups, upon each of which was laid a different rate.<sup>67</sup> Railroad and pipe line companies are taxed four per cent. of their intra-state gross receipts; express and telegraph companies, two per cent; and street, suburban and inter-urban railroad companies, electric light, gas, natural gas, water works, telephone, messenger or signal, union depot, heating or cooling, and water transportation companies, 1.2 per cent. of such gross earnings or receipts. The companies in the last two groups are also subject to the assessment and taxation of their property in the usual manner. Sleeping car, freight line and equivalent companies are also taxed 1.2 per cent. on the proportion of their capital

<sup>67</sup>Owing to the constitutional requirement of uniform treatment of all forms of property, corporate and individual, corporation taxes as such may not be imposed in Ohio, but excise taxes for the privilege of carrying on their business within the state are exacted of public utilities.

stock adjudged by the commission to represent the capital and property of each company owned and used in Ohio, after deducting the value of all real estate taxed locally in Ohio. The differentiation in rates thus introduced was fully justified on the ground of difference in character, and the increase in rate was defended on the ground that it now applied strictly to intra-state business only, which was more carefully defined. Moreover, some new utilities, like union depot companies, were now for the first time subjected to taxation.

The act of May 10, 1910, had changed the basis for determining the amount of the excise taxes payable by railroads, substituting a tax of 4 per cent. on the gross earnings from intra-state business for the old tax of 1 per cent. on that proportion of their total gross earnings represented by their mileage in Ohio. As many of the railroads could not state their intra-state earnings, owing to the short time since the passage of the act, the commission accepted from such companies an estimate of their intra-state earnings, based upon the mileage principle. Even under this arrangement the assessed basis of taxation for railroads was increased some \$20,000,000, or about 100 per cent. The increase in the taxable basis of all other public utilities amounted to \$634,000, or 8.4 per cent. As a result of the greater care and thoroughness exercised by the commission the state revenues from these sources and from the franchise taxes upon foreign corporations were increased over \$550,000.

Owing to the fact that the taxable values of railroads have been distributed among the local taxing districts for purposes of taxation, no statistics exist in Ohio which show for each year the aggregate taxes on railroads. Hereafter, we may expect to have these.



## CHAPTER VII

### BUSINESS AND MISCELLANEOUS TAXATION.

#### LOTTERIES.

Lotteries were not infrequently resorted to in the days of early state finance<sup>1</sup> to raise funds for special purposes, and Ohio was no exception to the general rule. During the session of 1806-7 the legislature passed an act authorizing a lottery to raise money to build a bridge across the mouth of the Muskingum River,<sup>2</sup> but it did not succeed.<sup>3</sup> At the same time private lotteries were forbidden.<sup>4</sup> Six years later it was provided that all lottery tickets heretofore issued by the authority of the state should be negotiable.<sup>5</sup> Practically all the lotteries authorized by the state were for educational or public purposes; in 1817 the legislature authorized one for the benefit of the Ohio University.<sup>6</sup> In 1824 the sale of unauthorized lottery tickets was forbidden, and in 1830 an act was passed to prevent lotteries. Apparently, however, this did not mark their end, for another and final act was passed in 1851 prohibiting lotteries.<sup>7</sup> They do not appear again in the legislative records, as the constitution of 1851 absolutely prohibited them.<sup>8</sup>

#### BANKS.

Banks were the first corporations to be subjected to taxation by the Ohio legislature, the first act taxing them

<sup>1</sup>Cf. Ely, *Taxation in American States and Cities*, p. 113; McMaster, *History of the People of the U. S.*, I, Index.

<sup>2</sup>*Ho. J.*, 1806-7, p. 172.

<sup>3</sup>T. Flint: *Western States*, II, 391.

<sup>4</sup>Act of Jan. 30, 1807.

<sup>5</sup>Act of Jan. 8, 1813. Chase, in his *Statutes of Ohio*, says Ohio resorted to lotteries only once, but this subsequent legislation seems to disprove this statement.

<sup>6</sup>Act of Dec. 29, 1817. *Ho. J.*, 1817-18, p. 149.

<sup>7</sup>Acts of Feb. 10, 1824; Feb. 22, 1830; March 8 and 24, 1851.

<sup>8</sup>"Lotteries, and the sale of lottery tickets, for any purpose whatever, shall forever be prohibited in this state." Art. XV, sec. 6.

being passed in 1815.<sup>9</sup> As the history of bank taxation is so important it has been treated more fully in another place.<sup>10</sup>

#### AUCTIONEERS AND SALES AT AUCTION.

Another source of revenue was tapped in 1818, by an act which levied a tax of three per cent. on the net amount of sales at auction;<sup>11</sup> it was limited, however, to goods and merchandize, the growth, product or manufacture of any foreign country. Sales of insolvent estates, of executors or administrators, or on execution, were exempt. One-third of the receipts from the tax were to go to the county in which the auction was held, and the remainder to the state. The court of common pleas was to appoint auctioneers, who should give bonds, and pay a license tax of \$20 a year. An amendment of February 18, 1824, made all goods sold at auction subject to the law, and gave the whole amount of the tax to the state; the proceeds were set aside as a literary fund, except that in Hamilton county one-half was to go to the Commercial Hospital and Lunatic Asylum of Ohio. In 1829 stock and farming utilities and manufactured goods made by individuals in their homes or by societies were exempted from the operation of this tax.<sup>12</sup> In 1831 the legislature again revised the law on this subject.<sup>13</sup> The former exemptions were removed, and all property sold at auction was divided into three classes: the first paid one per cent.; the second, one and one-half per cent.; and the third, two per cent. The license tax on auctioneers was to be fixed by the court, not to exceed \$500 a year, but the disposition of the proceeds of the tax remained the same. By further amendments of 1834 and 1835 a fourth class was introduced on which the tax should be three-quarters of one per cent.<sup>14</sup> The existing legislation was

<sup>9</sup>Act of February 8, 1815. *Ho. J.*, 1814, p. 142.

<sup>10</sup>See Ch. V, History of Banks and Bank Taxation.

<sup>11</sup>Act of January 30, 1818; in effect May 1.

<sup>12</sup>Act of January 19, 1829.

<sup>13</sup>Act of March 14, 1831. Chase, *Ohio Statutes*, III, 1822.

<sup>14</sup>Acts of January 2, 1834, and March 4, 1835.

codified in 1840, but no changes made in the law except to exempt judicial sales.<sup>15</sup> No further legislation was passed on this subject until 1875, when the appointment of auctioneers and the determination of the rate of the license tax were left to the court of common pleas.<sup>16</sup> Since that date no change has been made.<sup>17</sup> The law therefore stands today substantially as it was first enacted in 1818, the only important amendment having been that of 1831. For the year ending November 15, 1909, the receipts to the state were \$85.67 from this source.

#### INCOME TAX ON LAWYERS AND PHYSICIANS.

In 1825 the first and only income tax ever imposed by the state of Ohio was laid on attorneys and counsellors at law and physicians and surgeons who had been practising over two years. The court of common pleas was to list them annually on the tax duplicates at from \$5 to \$50 and they were to be taxed on these amounts.<sup>18</sup> In 1830 the tax was made directly upon incomes, and called for an annual tax of not over \$5 upon the incomes of lawyers and physicians.<sup>19</sup> The assessors of the counties were to make a list of the lawyers and physicians and report them to the county commissioners, who were to rate them for taxation. The law remained in force until the adoption of the new constitution, when it was repealed.<sup>20</sup> It was of little significance as a revenue producer, but served to secure the registration of the lawyers and physicians in the state. The state received only a very meager revenue from this source, the largest amount being \$7301 in 1851.<sup>21</sup>

<sup>15</sup>Act of March 16, 1840.

<sup>16</sup>Act of March 20, 1875-72. *O. L.*, p. 66.

<sup>17</sup>*Rev. Stat.*, 4222-4238.

<sup>18</sup>Act of Feb. 7, 1825; in effect March 1, 1826.

<sup>19</sup>Act of Feb. 22, 1830.

<sup>20</sup>Act of March 18, 1852.

<sup>21</sup>For complete receipts see Ch. II, appendix, Table II.

## TAX ON BROKERS.

The act of February 3, 1825, which initiated in a very partial manner the general property tax in place of the old tax on lands, also imposed taxes upon merchants and exchange brokers. The latter were divided into three classes for purposes of taxation, and their capital arbitrarily listed at the amounts assigned to these classes: those with a capital of \$60,000; those with a capital of \$30,000; and those with a capital of \$15,000. The associate judges of each county were to list and class exchange brokers by June 1 of each year and deliver the list to the assessor,<sup>22</sup> who were then to assess them on this basis at the rate of the general property tax. The attempt to classify exchange brokers was given up in the act of March 14, 1831, which directed that they were to be taxed according to the value of the stock in trade used. This was further amended by the act of March 21, 1840, which provided for taxing the capital of exchange brokers and stock jobbers; their capital was to be placed on the grand list for taxation for state and local purposes.

Money brokers were taxed, by the act of March 12, 1845, one-eighth of one per cent. annually on all money bought and sold; they were required to take out an annual license. By an act passed the following day they were permitted to set off their debts against their credits. The following year money brokers were again required to take out a license and were taxed according to the amount of their business.<sup>23</sup> The broker was required to take an oath as to the amount of money he believed he would employ during the year next ensuing. Under such a naive law a great many pessimists as to their business outlook must have developed in Ohio. The classification and grading of

<sup>22</sup>The amendment of Jan. 17, 1826, gave the duty of listing and classing to the assessor, who must file the list with the clerk of the court of common pleas.

<sup>23</sup>Act of March 2, 1846. By act of March 19, 1849, this law was extended to stock brokers.



the tax was also very clumsy and inequitable; it was as follows:

Amount of Business.	Annual Tax.
Under \$10,000.....	\$ 60
\$10,000—20,000.....	120
20,000— 30,000.....	180
30,000— 40,000.....	240
40,000— 50,000.....	300
Over \$50,000, \$6.00 on each additional \$1000 plus the previous tax.	

It will be noticed that the tax amounted to \$6.00 on each \$1000 for the highest members of the class, but was regressive within the class, being much heavier on the lowest members of the group, since the tax was a fixed sum for every one within the group. Fortunately this law was repealed after three years,<sup>24</sup> and money brokers were taxed like other individuals under the general property tax.

By the act of April 13, 1852, exchange brokers and stock jobbers were grouped with bankers and were taxed on the average value of all moneys, stocks, etc., during the past year, at the same rate as the property of individuals; property so listed to be subject to all taxes for state and local purposes. No change was made by the act of April 5, 1859, but after that date the specific mention of brokers as subjects of taxation disappeared from the laws.

#### TAX ON MERCHANTS AND MANUFACTURERS.

In casting about for additional sources of revenue to meet the proposed expenditures for internal improvements the governor suggested the capital employed in mercantile business.<sup>25</sup> This he estimated at \$3,000,000, yielding an annual profit of about \$375,000, which he thought could bear a tax of four per cent., and thus produce to the state the sum of \$15,000 annually. The act of February 3, 1825, accordingly levied a tax on the capital of all merchants

<sup>24</sup>Act of March 20, 1849.

<sup>25</sup>Gov. Mess., *Ho. J.*, 1821-22, p. 44.

employed within the state. Merchants were divided into eight classes and were taxed on the amount of capital assigned to the class in which they were placed. The classes and the amounts of capital assigned to each were as follows:

Class 1.....	\$50,000 capital
Class 2.....	40,000 capital
Class 3.....	30,000 capital
Class 4.....	20,000 capital
Class 5.....	15,000 capital
Class 6.....	10,000 capital
Class 7.....	5,000 capital
Class 8.....	2,500 capital

The associate judges of each county were given the duty of listing and classing the merchants and of delivering the lists to the assessor.<sup>26</sup> Aggrieved merchants were given the right of appeal to the board of equalization, who might order a change of class. Two years later all merchants dealing exclusively in goods or merchandize of the growth or manufacture of Ohio, and employing less than \$200 stock in trade, were exempted from taxation.<sup>27</sup> This was quite in line with the general tax policy of the state during this period, when the tax machinery was used as a means of granting favors, of encouraging particular industries, and of retaliation and suppression. The attempt to classify merchants was given up in the act of March 14, 1831, which simply taxed "according to the value of the stock in trade used"; but the same exemption given by the act of 1827 to small merchants, trading in Ohio products, was continued. With the introduction of the general property tax

<sup>26</sup>An amendment of Jan. 17, 1826, assigned the duty of listing and classifying to the assessor, who must file his list with the clerk of the court of common pleas.

<sup>27</sup>Act of Jan. 31, 1827, § 9. "Where payment of the tax on merchants was resisted on the ground that the merchandize taxed was the growth or manufacture of foreign countries and other states, and was not therefore constitutionally subject to taxation by state authority, the court overruled the objection and sustained the constitutionality of the law." *Raguet v. Wade*, 4 *Ohio Rep.*, 107, cited by Chase, *Ohio Statutes*, II, 1478 n.

in 1846, merchants and manufacturers were taxed on the value of their property like individuals, and this principle has since been continued.<sup>28</sup>

Manufacturers were not subjected to taxation until 1831, the general policy of favoring these enterprises not permitting the imposition of any tax burdens upon them before this time. By the act of March 14, 1831, a number of industries, hitherto exempt, were enumerated as being specifically subject to taxation; these were: "all grist, oil, and saw mills; all manufactories of iron, glass, paper, clocks, and nails; all distilleries, breweries and tanneries; all iron, brass and copper founderies; . . . all stocks or capital invested in steamboats . . ." These were taxed at the ordinary rate of taxation. In the subsequent acts of 1846, 1852, 1859, and 1878, manufacturers were grouped with merchants and were taxed on the average value of all their property during the previous year. The law is substantially the same today, merchants and manufacturers listing their stocks as personal property, to be taxed for general state and local purposes under the general property tax rate.<sup>29</sup> It shall be listed in the township, city or village in which it is situated. All other personal property is listed at the residence of the owner.<sup>30</sup>

#### INSURANCE COMPANIES.

The first law laying a tax on insurance companies in Ohio seems to have been that of February 22, 1830. By this act domestic insurance companies were required to pay four per cent. of their dividends; foreign insurance companies paid an annual license fee of \$50 for each agency and also four per cent. of the profits of such agencies; if, however, the tax on the profits exceeded \$50, then the amount of the license was to be subtracted. This act was repealed the following year and the "act to tax bank, insurance, and bridge companies" levied a tax of five per cent.

<sup>28</sup>Acts of March 2, 1846; April 13, 1852; April 5, 1859.

<sup>29</sup>R. S. § 2740-2742.

<sup>30</sup>R. S. § 2735.

on the dividends. Foreign insurance companies were required to pay six per cent. of the profit on premiums received in the state.<sup>31</sup> The revenues from the taxes on insurance companies is shown in the table of receipts at the end of chapter II.<sup>32</sup>

No further legislation occurred until 1846, when the tax on domestic insurance companies was raised to six per cent. on their gross profits.<sup>33</sup> This would seem to indicate that the business was prospering in Ohio. By the constitution of 1851 it was provided<sup>34</sup> that corporate property should be taxed like the property of individuals. Accordingly the law of April 13, 1852, ordered all insurance companies, as well as canals, railroad, bridge, telegraph, and other joint stock companies, to list all their property at its actual value; all property so listed to pay the same tax as other property in the state.<sup>35</sup> No distinction was here made between domestic and foreign insurance companies, and as a result the latter escaped taxation in Ohio since they had no property in the state. During the period of the Civil War the business of insurance attained an enormous development in Ohio, and was steadily on the increase;<sup>36</sup> the auditor urged the taxation of foreign insurance companies in his report for 1865.

It was not until 1876,<sup>37</sup> however, that foreign insurance companies were again specifically taxed. An act of that year provided that foreign insurance companies doing business in Ohio should return annually to the auditor of the county in which an agency was kept the amount of the gross premium receipts of such company, which should be entered upon the tax list and taxed at the same rate as all other personal property.<sup>38</sup> Similar legisla-

<sup>31</sup> Act of March 12, 1831.

<sup>32</sup> Figures for 1831 to 1844 are given in spec. rep. of aud., Dec. 23, 1844.

<sup>33</sup> March 2, 1846.

<sup>34</sup> Art XIII, sec. 4.

<sup>35</sup> This was repeated in the act of April 5, 1850.

<sup>36</sup> Aud. rep. *Exec. Doc.*, 1865, I, 334.

<sup>37</sup> 73 O. L. 130, § 10.

<sup>38</sup> This was re-enacted by the act of April 11, 1888. O. L., p. 183.



tion in other states directed against Ohio companies finally called forth the retaliatory act of April 12, 1889.<sup>39</sup> This provided that the superintendent of insurance should collect from foreign insurance companies such sums as would, added to county taxes, produce  $2\frac{1}{2}$  per cent. on the gross premium receipts of such companies; provided that if Ohio companies were charged more than  $2\frac{1}{2}$  per cent. in other states or countries, a like tax should be imposed upon companies from those states. If any company refused to pay these taxes, its license to do business in the state should be revoked. The proceeds of this tax were to be paid into the state treasury for the general uses of the state.

In 1893 a slight change was made in the tax. Foreign insurance companies were taxed on their gross premium and assessment receipts; but if the policy holders participated in the earnings, such distribution of earnings was first to be subtracted.<sup>40</sup> The retaliatory feature remained unchanged. In 1902 another change was made in the basis of the tax. An excise tax of  $2\frac{1}{2}$  per cent. was levied on the gross premiums, less the return premiums and considerations for reinsurance, but no alteration was made in the retaliatory feature.<sup>41</sup> No change was made in the law respecting domestic insurance companies, and they are taxed on their property like other corporations.<sup>42</sup> In 1900 a tax of  $\frac{1}{2}$  per cent. was imposed on the gross premium receipts of all insurance companies, in addition to existing taxes, to defray the expenses of a state fire marshall and his department.<sup>43</sup> For the year ending November 15, 1909, the receipts from the insurance department were \$1,049,277.

<sup>39</sup>*O. L.*, 1889, p. 274.

<sup>40</sup>Act of April 19, 1893. Amended by act of March 27, 1894. *O. L.*, 1893, p. 201.

<sup>41</sup>Act of April 29, 1902. *O. L.*, p. 290. Amended by act of April 25, 1904.

<sup>42</sup>*R. S.* § 2745, 2745d.

<sup>43</sup>Act of April 16, 1900. *O. L.*, p. 389.

## TRANSPORTATION COMPANIES.

The first of the various companies engaged in the work of improving the means of transportation in Ohio to be subjected to taxation for state purposes were the bridge companies. An act of March 12, 1831, levied a tax of five per cent. on the dividends of bridge companies, as well as on those of bank and insurance companies. That the bridge companies were included in a trio with the other two businesses shows that they must have been profitable. In the same year<sup>44</sup> all stocks or capital invested in steamboats, and all pleasure carriages with two or four wheels, were taxed in the hands of their owners according to their value in money. The general property tax law of March 2, 1846, provided for the taxation of railroad, canal, and slackwater navigation companies according to their true value in money. By the act of April 13, 1852, every canal, railroad, turnpike, insurance, bridge, telegraph and other company was required to list for taxation, at its actual value, its real and personal property, within the state. Property was to be returned to the auditor of the county where it was situated and moveable property to be apporportioned pro rata according to the value of the fixed property. Property so listed was to pay all state and local taxes. No change in principle was made by the law of April 5, 1859.

After this date a wide differentiation took place in the value and tax bearing ability of these different corporations. Railroads grew in magnitude and importance and called for peculiar and separate treatment; the history of their taxation is discussed elsewhere.<sup>45</sup> Private canals fell into disuse and were abandoned, while the state canals were never, of course, objects of taxation. Turnpikes and bridges were constructed by governmental rather than by private aid, and the property of the early private companies was taken over by the counties or townships. Other corporate property was taxed under the general property

<sup>44</sup>Act of March 14, 1831.

<sup>45</sup>See chapter VI, on the History and Taxation of Railroads.

tax, though after 1860 special boards or other tax machinery began to be used in assessing taxes on these transportation agencies. With the development of special companies for the transmission of news attention began to be directed to their taxation, and to these we may now turn.

#### THE TAXATION OF TELEGRAPH, TELEPHONE, AND EXPRESS COMPANIES.

The first mention of any of these companies for purposes of taxation occurred in the act of April 13, 1852, which provided that telegraph companies, among others, should list their real and personal property for taxation under the general property tax rate. Foreign companies managed to escape under this general act, so in 1862 a law was passed<sup>46</sup> taxing foreign telegraph and express companies on their net receipts within the state. Express companies were permitted to deduct the amount required to be paid out for transportation expenses, and telegraph agents might deduct the necessary expenses of their offices. Severe penalties were provided for non-compliance and the agents were made personally liable. If the returns were not made by the agent, the auditor was to enter them upon the tax duplicate with a penalty of 50 per cent. If the taxes were not paid the agent was made personally liable and his personal property was subject to sale, while if the taxes were unpaid in thirty days it was made unlawful for any one to act as agent, and the company could not do business.

After a three years' trial of this law it was amended by the act of April 13, 1865.<sup>47</sup> Telegraph companies were no longer allowed to deduct the "necessary expenses" of their office, but were taxed on their gross receipts.<sup>48</sup> Evidently these expenses had swollen to undue proportions. In the case of express companies the right to deduct the cost of transportation from gross receipts was continued, but the law stipulated that the amount deducted be not

<sup>46</sup>Act of May 1, 1862. 59 O. L., 91. Swan and Sayler, p. 769.

<sup>47</sup>62 O. L. 174.

<sup>48</sup>This had been urged by the auditor. *Exec. Doc.*, 1864, I, 225.

the amount required to be paid, but the amount *actually* paid for transportation charges. The principal agent of the company, moreover, was permitted to make the returns to the county auditor, instead of the local agents. For a period of twenty-eight years following this law there was no further legislation on this subject, but the telegraph companies must have prospered, if any inference can be drawn from the following rates:<sup>49</sup>

Rates for 10 words in cents.	Western Union		Atlantic & Pacific	
	1868	1869	1868	1869
For 50 miles.....	45	30	25	30
For 100 miles.....	60	40	30	30
For 200 miles.....	75	70	40	40
For 300 miles.....	90	90	40	70
For 400 miles.....	105	110	50	..
For 500 miles.....	120	130	50	..

The rise in the long distance rates of the Western Union company in 1869, after the competition of the Atlantic & Pacific company ceased, is significant, as well as the fall in the short distance rates.

On April 27, 1893, the general assembly passed the Nichols law, thereby changing entirely the method of assessment.<sup>50</sup> In place of the annual statements filed with the county auditors and forwarded by them to the auditor of state, a board of appraisers and assessors was provided for, composed of the state treasurer, attorney general, and auditor, who should assess the value of the property of express, telegraph, and telephone companies doing business in the state. Every such company must file annually with the auditor of state a sworn statement comprising the following items: (1) the amount of capital stock, (2) place of business, (3) the par and market value of its shares (if there be no market value then the actual value), (4) the value of the entire real and personal property. In addition to these items the telegraph and telephone companies were required to state (5) the length of their lines within the

<sup>49</sup>Rep. Com'r of Railroads and Telegraphs. *Exec. Doc.*, 1860, II, 659.

<sup>50</sup>90 O. L. 330.



state, and (6) the length of their lines without the state. The express companies were also to return the gross receipts for the year, for each office in Ohio. In determining the value of the property within the state for assessment the board was to be guided by the value of the capital stock; the taxes were to be apportioned to the counties in which the companies did business, and real estate taxed locally was to be deducted. The following year<sup>51</sup> provision was made for severe penalties in case of non-compliance with the law: failure to file the statement when due subjected the negligent company to a fine of \$500, followed by an additional penalty of \$100 per day until filed. This act was called forth by the resistance of the telegraph companies to the increased taxes imposed upon them by the law of 1893; they contested the constitutionality of the Nichols law, but it was declared valid by the Supreme Court.

During the same session the express companies were singled out for special and heavy taxation, by the imposition of an excise tax of 2 per cent. on their gross receipts.<sup>52</sup> The gross receipts were to be ascertained by deducting the amounts actually paid to railroads for transportation from the entire receipts for business done in the state. This was to be fixed by the state board of appraisers and assessors before described, who were to apportion the taxes among the counties in which the business was done. Heavy penalties were provided in case of failure to pay this tax, but they were not thereby exempted from the general tax on their tangible property. This tax remained in operation for eight years,<sup>53</sup> until it was superseded by the Cole law tax on all public service corporations in 1902.

#### TAX ON PUBLIC SERVICE CORPORATIONS.

In 1902 the Cole law levied an excise tax of 1 per cent. on the gross receipts earned in the state, of public service corporations, for the privilege of operating in Ohio.<sup>54</sup> The

<sup>51</sup>Act of May 10, 1894. *Laning's Rev. Stat.*, 1906, I, 865, § 4119.

<sup>52</sup>Act of May 14, 1894. 91 *O. L.* 237.

<sup>53</sup>Repealed by act of May 9, 1902. 99 *O. L.* 440.

<sup>54</sup>Act of April 15, 1902; amended April 25, 1904.

businesses enumerated by this act are all domestic and foreign corporations engaged in steam, street, suburban or interurban railroad, express, telegraph, telephone, electric light, gas, natural gas, pipe line, waterworks, messenger or signal, union depot, heating, cooling, and water transportation companies. These companies report their earnings and other information to the state board of appraisers and assessors, which consists of the auditor, treasurer, secretary of state, and attorney general, and the 1 per cent. tax is imposed by this board, and collected through the office of the auditor of state. The express companies must file their entire receipts; the telegraph and telephone companies their gross receipts; the railroads, their gross earnings; the street and interurban railways, their gross earnings; and other corporations, their gross receipts. The tax is used exclusively for state purposes.<sup>55</sup> In addition to this excise or privilege tax, the real and personal property of these corporations is subject to the same taxation as other property in the state, for state and local purposes.

In 1910 the principal of differentiation was introduced in the taxation of these corporations.\* Previously all the public service utilities had paid the same excise tax of one per cent. of their gross receipts supposedly earned within the state; this large class was now broken up into smaller groups, upon each of which is laid a different rate. Railroad and pipe line companies are taxed 4 per cent. of their intrastate gross receipts; express and telegraph companies, 2 per cent.; and street, suburban and interurban railroad companies, electric light, gas, natural gas, waterworks, telephone, messenger or signal, union depot, heating or cooling, and water transportation companies, 1.2 per cent. of such gross earnings or receipts. The companies in the last two groups are also subject to the assessment and taxation of their property in the usual manner.

<sup>55</sup>*Rev. Stat.*, § 2780-17 to § 2780-23.

\*Act of May 10, 1910. 101 *O. L.* 390.

## TAX UPON FOREIGN AND DOMESTIC CORPORATIONS.

As the constitution of 1851 called for the uniform taxation of all property, whether in the hands of individuals or corporations, it became necessary to devise some method that would not conflict with this provision, when the heavier taxation of corporations was decided upon. Consequently the various corporation taxes are known not as taxes, but as fees or excise or privilege charges.<sup>56</sup> In 1902 the Willis law imposed a general corporation tax upon all foreign and domestic corporations (except those conducting a public service, which were otherwise taxed). Domestic corporations, operating for profit, are required to file a report containing the amount of the authorized capital and its par value, and the amount subscribed, issued, and paid up; upon the subscribed or outstanding capital stock they are to pay annually  $\frac{1}{10}$  of 1 per cent., but not less than \$10. Foreign corporations operating for profit, are required to pay  $\frac{1}{10}$  of 1 per cent. upon the proportion of their authorized capital stock represented by property owned and used and business transacted in Ohio but not less than \$10. Domestic corporations, not operated for profit, have to pay \$1 annually. This tax is collected by the secretary of state and the proceeds used exclusively for state purposes. In 1904 an act "to relieve owners of stock from double taxation" excepted certain companies which were otherwise taxed, as foreign insurance, banking, savings and loan, or building and loan, and transportation and transmission companies engaged in Ohio in interstate commerce.<sup>57</sup> The individual was not taxed on the shares of corporations already taxed.<sup>58</sup>

In 1910 the rate of taxation was slightly raised.\* Each

<sup>56</sup>The title of the corporation tax law of April 11, 1902, was, "An act to require corporations to file annual reports with the Secretary of State and pay annual fees therefore." 99 *O. L.* 124.

<sup>57</sup>Act of April 25, 1904. 101 *O. L.* 496.

<sup>58</sup>*Cf. Rev. Stat.*, § 2780-24 to § 2780-31; or Laning's *Rev. Stat.*, 1906, §§ 4150 ff.

\*Act of May 10, 1910. 101 *O. L.* 399.

corporation for profit organized under the laws of Ohio is now required to make an annual report, and is subject to a fee of three-twentieths of one per cent. upon its subscribed or issued and outstanding capital stock. Each foreign corporation for profit doing business in Ohio must make similar reports annually; and is subject to a tax of one-tenth of one per cent. for 1910, and three-twentieths of one per cent. for each year thereafter, upon the proportion of the authorized capital stock represented by property and business in the state. Public utility, insurance, and building and loan companies required to make other reports and pay other taxes are not subject to these provisions.

#### LIQUOR TAXES.

The taxation of the sale of liquors in Ohio is an interesting subject, because, so far as a layman can see, the whole business is illegal. The constitution of 1851 (Art. XV, sec. 9) provided that "no license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may, by law, provide against the evils resulting therefrom." The vote on this clause was close, being 113,237 to 104,255. The framers of the constitution intended to prohibit the license of the liquor traffic and a majority of the voters supported them. As the constitution has never been amended in this regard, the existence of the traffic in liquors in Ohio would seem to be illegal. But while the constitution has not been changed, it has been evaded; under the clause giving the general assembly the right to regulate the evils arising therefrom, it is regularly fined or penalized each year by the collection of a tax. The history of the liquor taxes in this state is therefore very largely a history of judicial interpretation.

It was not long after the adoption of the constitution before the first legislation on the subject was passed.<sup>59</sup> The act of May 1, 1854, provided against the evils resulting from the use of intoxicating liquors, by punishing the sale

<sup>59</sup>52 O. L. 153. No state laws had been passed in the period prior to 1851 taxing or regulating the liquor traffic, but this had been done locally.



of intoxicating liquors to be drunk in or about the building where they were sold. A penalty of a fine of from \$20 to \$50 and imprisonment of from 10 to 30 days in the penitentiary was provided. Apparently no limitation was placed upon the sale of liquor for home consumption; only the saloon was forbidden. Not until 1882 were saloons legalized and the business put upon a legal basis.<sup>60</sup> Under the Pond Law a system of taxation was provided, graded in amount according to the location of the business, with the requirement of a bond for the performance of all the conditions of the act, and providing penalties of fine or imprisonment, or both. At the January term, 1882, of the Supreme Court, this act was declared unconstitutional, on the ground that, as it was unlawful to sell intoxicating liquors to be drunk upon the premises, and the Pond law gave the privilege of freely trafficking in intoxicating liquors to dealers who execute bonds and pay into the treasury, in advance, annual sums of money, and as it is impossible for dealers who fail to comply with the statute, to sell intoxicating liquors of any sort without committing a crime, the tax, as levied, is, in effect, a license.<sup>61</sup>

The following year the general assembly tried to meet these criticisms and to pass a law authorizing the liquor traffic that would stand the constitutional test. The Scott law was accordingly passed on April 17, 1883,<sup>62</sup> providing for a tax of \$200, and omitting the bond and penalty features of the Pond Law, but making the assessment a lien upon the real estate on or in which the business was conducted. At the January term, 1883, the Supreme Court decided this act "a valid and constitutional amendment."<sup>63</sup> In *Butzman v. Whitlock*<sup>64</sup> it was held that the Scott law, so far as it provided for a lien on real estate, was, in

<sup>60</sup>79 O. L. 66.

<sup>61</sup>State v. Hipp, 38 O. S. 199. This, and subsequent digests of decisions are taken from Bates's *Annotated Ohio Statutes*, II, 2417 m-2418.

<sup>62</sup>80 O. L. 164.

<sup>63</sup>State v. Frame, *Benner v. Bauder*, 39 O. S. 399.

<sup>64</sup>42 O. S. 223.

effect, a license law, and therefore unconstitutional. The Supreme Court similarly held,<sup>65</sup> that, so far as the law provided for a lien in the manner set forth therein, it was, in effect, a license law, and therefore unconstitutional.

The general assembly was becoming wiser, and was now able, after the rocks had been pointed out on which a liquor law might suffer shipwreck, to pass a seaworthy act. The Dow law, with the praiseworthy and constitutional title of "an act providing against the evils resulting from the traffic in intoxicating liquors", was passed on May 14, 1886,<sup>66</sup> providing, among other things, for a yearly tax of \$200 on the traffic in intoxicating liquors, and one of \$100 on the traffic in malt or vinous liquors. Of the proceeds, three-fourths were to go into the county treasury and one-fourth into the poor fund. In *Adler v. Whitbeck and Anderson v. Brewster*,<sup>67</sup> the constitutionality of this statute was upheld. The syllabus of the former case was as follows: "It is competent for the general assembly of the state to impose a tax on the business of trafficking in intoxicating liquors as a means of providing against the evils resulting therefrom". Neither the tax so imposed, nor a provision that the same shall attach as a lien on the property in which it is conducted, constitutes a license within the meaning of the constitution.

Up to this time the liquor tax had gone into the local treasuries, but insufficient state revenues led the governor in 1886 to suggest that the state be given twenty-five per cent of the proceeds of the liquor traffic tax.<sup>68</sup> The suggestion was followed, in part at least, in the act of March 26, 1888,<sup>69</sup> which raised the amount of the tax to \$250, swept away the distinction between the different kinds of liquors, and gave the state one-fifth of the proceeds. Successive amendments have raised the tax still further and

<sup>65</sup>*State v. Sinks*, 42 O. S. 345.

<sup>66</sup>83 O. L. 157.

<sup>67</sup>44 O. S. 539. 576.

<sup>68</sup>Gov. Mess., 1886, p. 744.

<sup>69</sup>O. L., 1889, p. 116.

have increased the share of the state in the receipts, but have not altered the law. The various changes in the Dow law are shown in the following table:

Date of law.	Amount of tax.	Share of state.
May 14, 1886.....	\$200 and \$100	0
March 26, 1888.....	\$ 250	$\frac{2}{10}$
Feb. 20, 1896.....	350	$\frac{3}{10}$
March 28, 1906.....	1000	$\frac{3}{10}$

The revenues to the state from this source have been important and have steadily increased, amounting, for the year ending November 15, 1909, to \$2,045,138. A provision for local option was contained in the Dow law, by which a special election could be held when one-quarter of the voters in a township petitioned for it, to decide the question of legalizing the liquor traffic; the issue is decided by a majority vote. On January 1, 1911, there were 62 "dry" counties in the state out of a total of 88.

#### TAX ON CIGARETS.

Similar to the liquor tax law is that levying a tax upon the business of trafficking in cigarettes. The first tax of this sort was imposed by the act of April 24, 1893,<sup>70</sup> "to tax the business of trafficking in cigarettes or cigaret wrappers", which exacted an annual payment of \$300 on the wholesale and of \$100 on the retail business. One-half of the proceeds were to go to the state and the other half into the county treasury. This law was amended the following year<sup>71</sup> by reducing the tax to \$30 and \$15 on the wholesale and retail business respectively; the distribution of the tax remained the same. This act bore a title similar to that of the Dow law, "to provide against the evils resulting from the traffic in cigarettes", which suggests a relationship between the two. For the year ending November 15, 1909, the tax yielded \$23,000.

#### INHERITANCE TAXES.

In the search for new sources of income for the state treasury the inheritance tax was also hit upon, as being

<sup>70</sup>90 O. L. 235.

<sup>71</sup>Act of May 18, 1894. 91 O. L. 311.

both equitable and productive.<sup>72</sup> The first action was taken by the legislature in the session of 1892, when the House passed a collateral inheritance tax bill on April 5, by a vote of 60 to 18.<sup>73</sup> As the legislature adjourned within two weeks from this date no action was taken by the Senate, but early in the following session they passed the bill,<sup>74</sup> and it became law on January 27, 1893. This act was primarily experimental in its character, and was copied in large part from the Connecticut statute on the subject.<sup>75</sup> It imposed a tax of 3½ per cent on all collateral inheritances above the sum of \$10,000. The list of persons considered as direct heirs and therefore not subject to the tax, was a very long one, and included the following: father, mother, husband, wife, brother, sister, niece, nephew, lineal descendants, and adopted child, the lineal descendant of any adopted child, the wife or widow of a son, or the husband of a daughter.<sup>76</sup>

The same session of the legislature which passed the first collateral inheritance law, provided for the appointment of a tax commission, "to thoroughly investigate the whole subject of taxation in the State," and to make recommendations for a revision of the tax laws. Among the recommendations submitted by them were two which bore upon this subject—a privilege tax on transfers of property by deed, mortgage or will, and upon appeals, writs of error, etc.; and an extension of the collateral inheritance tax to classes exempted by the present law, and an increase of the tax.<sup>77</sup> Two laws were accordingly passed in 1894, designed to carry out these suggestions, of which one was a direct inheritance tax and the other amended the existing

<sup>72</sup>"The tax upon inheritances is another means of reaching personal property which otherwise escapes. It is to be approved because it is an effective substitute for the tax upon intangible property." Rep. Ohio Tax Commission, 1893, p. 62.

<sup>73</sup>*Ho. J.*, 1892, p. 150.

<sup>74</sup>*Sen. J.*, 1893, p. 36.

<sup>75</sup>Max West, "*The Inheritance Tax.*" *Col. Univ. Studies*, 1893-4, p. 89-91.

<sup>76</sup>90 O. L. 14.

<sup>77</sup>Rep., p. 70.



collateral inheritance tax law. By the latter act the rate was increased to 5 per cent and the exemption reduced to \$200. Of the proceeds from the tax 75 per cent was to go to the state and 25 per cent to the county in which the tax was collected. No change was made in the list of persons who were considered direct heirs, but bequests to the state and local government, public institutions of learning, public charity, or any other exclusively public use were exempt from the operation of the law.<sup>78</sup>

The direct inheritance tax law was designed to complement the collateral inheritance tax, and was passed the same day.<sup>79</sup> Estates over \$20,000, passing to any of the persons enumerated as direct heirs in the earlier act of January 27, 1893, were subjected to a progressive tax, graduated from 1 per cent on the smallest estates to 5 per cent on those over \$1,000,000. The same distribution of the proceeds was provided for as in the twin collateral inheritance tax, namely 75 per cent to the state and 25 per cent to the county in which the tax was collected. It may be noted that at the time of its enactment this was the only progressive direct inheritance tax in the United States.<sup>80</sup> The following table shows the various rates and the scale of progression:<sup>81</sup>

#### OHIO DIRECT INHERITANCE TAX, 1894.

Estate.	Tax.
Under \$20,000.....	0
\$ 20,000—\$ 50,000.....	1%
50,000— 100,000.....	1½
100,000— 200,000.....	2
200,000— 300,000.....	3
300,000— 500,000.....	3½
500,000— 1,000,000.....	4
1,000,000 and over.....	5

<sup>78</sup>Act of April 20, 1894. 91 *O. L.* 169. The act was declared constitutional in *Hagerty v. State*, 55 *O. S.* 613.

<sup>79</sup>Act of April 20, 1894. 91 *O. L.* 166.

<sup>80</sup>Actually, the tax is degressive instead of progressive.

<sup>81</sup>Seligman, *Essays in Taxation*, p. 134.

This act was a short-lived one, for on June 27, 1895, it was declared unconstitutional by the Supreme Court of Ohio,<sup>82</sup> after having been held invalid by the circuit court. Both courts agreed that the tax was not on property, but on the right or privilege of succession, and hence was not inconsistent with the clause of the constitution requiring uniform taxation of all property.<sup>83</sup> But both the exemption of \$20,000 and the progressive scale were held to be in conflict with that section of the Bill of Rights which stated that "government is instituted for their [the people's] equal protection and benefit." The principle of a direct inheritance tax was thus sustained, though the application of it in this particular act was declared improper. As a result of this decision the collections ceased and the state and county auditors were directed to refund the payments already made.<sup>84</sup> But upon June 8, 1897, this act was in turn declared unconstitutional because it failed to receive the concurrent vote of two-thirds of the members of the general assembly. Consequently another act had to be passed to remedy this defect and to legalize the repayments already made.<sup>85</sup>

For several years after this no further changes were made in the direction of extending the inheritance tax legislation. But in 1904, in response to an urgent appeal from Governor Herrick that the revenues of the state be increased, a bill was rushed through both houses of the general assembly under suspension of the rules on the last day of the session.<sup>86</sup> This act provided that a tax of 2 per cent should be imposed on all estates in excess of \$3000 passing to direct heirs, these being defined as in the previous law of 1894. This time the entire proceeds of the tax were to flow into the state treasury. In a test case the

<sup>82</sup>State v. Ferris, 53 O. S. 314.

<sup>83</sup>Art. XII, sec. 2.

<sup>84</sup>Act of April 27, 1896. 92 O. L. 374.

<sup>85</sup>Act of April 8, 1898. O. L., 1898, p. 96.

<sup>86</sup>Act of April 25, 1904. 97 O. L., 398. The vote was 66 to 23 in the House, and 27 to 7 in the Senate.

law was declared constitutional,<sup>87</sup> but it was nevertheless repealed the following session. The governor declared in his annual message his belief that it was "the wish of the great majority of the people of the state that the inheritance tax law be repealed,"<sup>88</sup> and this was accordingly done by the act of April 2, 1906.<sup>89</sup> The collateral inheritance tax still remains in force,<sup>90</sup> though the returns therefrom are very small, amounting, for the year ending November 15, 1909, to only \$45,139.

#### MISCELLANEOUS BUSINESS TAXES AND LICENSES.

In addition to those described above, the state levies an annual license tax on peddlers, \$12 if they go on foot, \$20 if with one horse, \$28 if with two horses, \$60 if on boat or train. A license tax is also levied on itinerant vendors of \$25 per annum. A license tax is imposed on the manufacturer, importer, or agents of any commercial fertilizer of \$20 on each train. This last is paid directly to the Ohio state board of agriculture.

#### CONCLUSION.

In the early history of taxation in Ohio a number of special taxes were made use of which were swept away when the general property tax was put into universal application. As new businesses or lucrative pursuits attracted legislative attention they were subjected to taxation by means of special acts. The state derived its main revenues from the tax on land, but in addition to that, it obtained some income from taxes on sales at auction, on lawyers and physicians, merchants and exchange brokers, bankers, brokers and stock jobbers, canal, railroad, turnpike, bridge, insurance, and other companies. With the introduction of the general property tax in 1846, and

<sup>87</sup>State *v.* Guilbert, 70 O. S. 229. Hostetter *v.* State, 5 C. C. n. s., 337; 16 C. D. 702.

<sup>88</sup>Gov. Mess., 1906, p. 13.

<sup>89</sup>98 O. L. 229.

<sup>90</sup>Rev. Stat., sec. 2731-1 to 2731-17.

especially after the requirement by the constitution of 1851 of the uniform taxation of all property, these separate taxes were swept away, or were coalesced under the general property tax. This all embracing tax or rather complex of taxes, took the place of the various special taxes. Gradually, however, with the development of the industrial life of the state and of new corporate interests, the general property tax was seen to be quite inadequate. Then began the third phase in the history of taxation in Ohio, the splitting off of certain industries or forms of property from the general property tax and taxing them at a different rate, or on a different basis than property, or by special machinery. This last period has seen the growth of a number of very interesting and important taxes, which have had a peculiar development in Ohio because of the inhibition placed upon legislative freedom by constitutional prohibitions.

But not merely have special corporation and inheritance taxes been developed, from which the state derives an increasing revenue, but there has been achieved in Ohio the practically complete separation of state and local sources of revenue. The general property tax has thus been left to the local governments. The administration of this tax has, however, been centralized in the hands of the state tax commission, which is given power to order reassessments. Serious study has been given to the subject of taxation in Ohio of recent years, and the establishment of a permanent tax commission may be said to have ushered in a fourth stage in the history of taxation in that state. Much progress has already been made, but much remains to be done. Most important is the change in the uniformity clause in the state constitution; but it is fairly certain that the constitutional convention now sitting (March, 1912) will modify this rule. Substantial improvements have been made in the administration of the tax on realty, but more scientific and precise methods of valuation should be generally introduced. The next important step in the direction of further reform will be the finding of a satisfactory



substitute for the discredited tax on intangible personalty, but it is difficult at this time to suggest what this may be. Perhaps the addition of a direct inheritance and a mortgage tax to the already existing corporation taxes would yield substantial justice. Or, if the uniformity clause in the constitution is amended, personal property may be classified and taxed at a lower rate than realty.

Whatever the future may hold in store, the student of taxation in Ohio cannot conclude this historical survey without having his conviction of the inequity of the general property tax system deepened. But progress, though slow, has been made. Experiments had to be made, and change has sometimes been difficult, even though it was evident that the existing system was unjust and undesirable. At last, however, the general property tax has begun to disintegrate, and we may confidently expect to see developed in Ohio an improved system, probably along the lines already marked out by her sister states further to the east.

## INDEX

- Accounts, 160, 165; canal accounts, 148-153.
- Agriculture, in territory, 16; products in 1805, 22; in 1822, 32; societies, 35; exports, 41; state board of, 44; development, 1840-60, 52; during Civil War, 60; wheat production, 64; experiment station, 109.
- Appropriations, 68, 70, 82, 84, 86, 97, 103, 110, 179; conclusions as to, 112-117; tables showing, 1800-1908, 118-121.
- Assessor, 203, 211, 217, 225.
- Atwater, Caleb, 30.
- Auction sales and auctioneers, 331.
- Auditor, territorial, 13; state, 145, 159, 166, 172-174, 175; county, 225, 230.
- Bank of the United States, 28; attempt to tax, 260-269, 273.
- Bank-notes, 28, 39, 258, 261, 284, 287; struggle over note-issues, 269-276; unauthorized notes, 274.
- Bank taxation, in 1815, 189, 257; in 1816, 259; in 1831, 281; in 1846, 281; in 1850, 282; struggle over, 283-286, 289-293; compromise with banks, 293; taxation of national banks, 297-301; taxation of banks and bankers, 216, 217, 222, 225, 238, 244, 330.
- Banks, 23, 43, 260, 277; of Chillicothe, 71; corruption, 163; Franklin Bank, 168, 266; Western Reserve Bank, 168; history and taxation of, 1803-1819, 257-260; regulation of, 1839-1850, 276-280; commissioners appointed, 276; State Bank, 278, 297; free banking act of 1851, 283; condition of, in 1857, 289; in 1860, 295; national banks, 296.
- Benevolent institutions, 79, 86, 98, 106.
- Bliss, A. A., 156.
- Breslin, J. G., 88, 156, 161, 164.
- Brokers, tax on, 36, 203, 206, 216, 225, 333.
- Brough, J., 94.
- Budget, a study of the, 68-144; budgetary legislation, 174-178; present practice, 178-180.
- Canals, 33, 37, 43, 50, 78, 80, 303; canal accounts, 148-153; taxation of, 339.
- Carriages, taxation of, 203, 206, 207, 216, 227.
- Cattle, taxation of, 203, 204, 216, 227.
- Chase, Salmon P., 57, 89, 169, 200, 227, 231, 288.
- Cigaret tax, 245, 348.
- Collection of taxes, 186, 188, 192, 203, 239; of delinquent taxes, 192, 195-200, 212-214, 231, 235, 254.
- Comptroller, 165, 171.
- Constitution of 1802, 145, 174; of 1851, 47, 158, 176, 221; amendment of, 243, 248; constitutional convention, 47, 250, 353.
- Corporations, taxation of, 217, 223, 245, 246, 248, 251, 339, 344.
- Credits, taxation of, 208, 217, 219, 222, 224, 229, 232.
- Curry, H. M., 74, 266.

- Defalcation of 1820, 74; of 1857, 83, 88, 154, 161.  
Deficit, 15, 69, 70, 74, 84, 85, 88, 90, 95, 105, 109, 180.  
Deposits, interest on, of state funds, 156, 159, 255.  
Direct tax of federal government, 71-73, 106, 189, 234.  
Economic conditions to 1803, 16-18; in 1805, 22; in 1822, 31.  
Equalization, boards of, 204, 211, 217, 226, 230, 238, 245.  
Excise taxes, 245, 246, 248.  
Exemptions from taxation, 194, 203, 207, 214-217, 220, 222, 224, 248.  
Expenditures, 1803-1824, 68-76; 79, 82, 94; local, 96; reduction of, 99; enlarged, 106-108, 112; conclusions as to, 112-117; tables showing, 1800-1908, 118, 121; 1822-1908, 134-144.  
Express companies, taxation of, 228, 245, 246, 251, 342.  
Fees, 10, 11, 17, 18, 245.  
Financial organization, 1792-1802, 10-16; administration, 1803-1910, 145-174.  
Foraker, J. B., 243.  
Funds, 100-102.  
General assembly, pay of, 19, 75, 95.  
General property tax, law of 1825, 36, 76, 202-214; of 1831, 207; of 1846, 46, 84, 214-221; of 1852, 223-227; of 1859, 229-231; of 1878, 237-240; abolition of, for state purposes, 246-248; conclusions as to, 352.  
Gibson, W. H., 88, 156, 161, 164.  
Governor, 9, 14, 19, 180.  
Harmon, J., 256.  
Harrison, W. H., 71.  
Herrick, M. T., 351.  
Immigration, 12, 16, 29, 34, 53; commissioner of, 60.  
Independent treasury, 165-172, 295.  
Inheritance tax, 245, 246, 348-352.  
Inquisitor system, 219, 239-242, 244.  
Insurance companies, taxation of, 237, 245, 246, 335-338.  
Interest, rate of, 62; on state deposits, 156, 159, 255.  
Labor, in 1800, 18; in 1838, 38; in 1860, 59.  
Land tax, territorial, 11; state, 21, 36, 181-201; classification of lands, 184; non-resident lands, 185-192; assessment and collection of taxes, 192-194; sale and redemption of land, 195-200; criticism of, 200-202.  
Lawyers and physicians, income tax on, 332.  
License tax, 352.  
Liquor traffic, taxation of, 207, 211, 245, 345-348.  
Lister, 11, 183, 185, 187.  
Loans, 71, 31; loan law of 1837, 80, 88, 89, 93, 104, 111.  
Lottery, 14, 330.  
Lucas, R. 31.  
McKinley, W., 245.  
Manufactures in 1811, 23; in 1834, 35; legislation regulating, 45; in 1856, 53; growth, 1850-1905, 65-67, 221.  
Manufacturers, taxation of, 207, 211, 217, 225, 335.

- Merchants, taxation of, 11, 36, 203, 206, 208, 216, 217, 225, 334.  
Miami Exporting Company, 71, 257.  
Money, scarcity of, 14, 16, 70, 146; disorder in 1819, 27; taxation of, 207, 208, 216, 217, 222, 224, 236.  
Nash, G. K., 247.  
Ohio, settlement of, 9; territorial government, 12; pioneer state, 19.  
Ohio Life Insurance and Trust Co., 88, 287.  
Osborn, R., 149, 266.  
Panic of 1819, 27; of 1837, 39; of 1857, 51, 286; of 1873, 64, 100; of 1884, 104; of 1893, 108.  
Personal property, 189, 205, 206, 209, 211, 215, 216, 219, 227, 228, 230, 233, 237, 241, 243, 244, 252, 354.  
Population, 29, 32.  
Public service corporations, taxation of, 248, 251, 252, 342.  
Railroad taxation, 238, 244, 251, 255; to 1851, 311-314; 1850-1866, 316-320; act of 1862, 317; board of assessors for, 318-320; excise taxation, 1893-1911, 324-329; in hands of tax commission, 327, 339.  
Railroads, 54; early building, 302-305; state and local aid, 305, 310; loan act of 1837, 306-309; regulation of, 1850-1866, 315; construction after Civil War, 320; Boesel law, 322.  
Real estate, 203, 205, 206, 207, 209, 211, 216, 219, 220, 223, 227, 229, 233, 236, 237, 247, 250, 252.  
Revenues, territorial, 15; state, 68, 71, 76, 79, 81, 103, 106; tables showing, 1800-1908, 118-133.  
Roads, 20, 339.  
St. Clair, Arthur, 9, 14.  
Schools, tax for, 30.  
Separation of state and local sources of revenue, 246, 249, 353.  
Slavery, attitude on, in 1820, 29; in 1860, 56.  
Sleeping car companies, taxation of, 245, 246, 251, 344.  
Steamboats, 24; taxation of, 207, 339.  
Tax commission of 1893, 242, 323; of 1906, 248; permanent, in 1910, 251; report of, 252.  
Taxation, territorial, 10; state, 181-354; rates of, 182, 206, 229, 239; act of 1804, 185; act of 1810, 187; act of 1820, 191; act of 1825, 202; act of 1831, 207; act of 1846, 216; act of 1851, 220; act of 1852, 223; act of 1859, 229; act of 1878, 237; of banks, 257-301; of railroads, 302-329; miscellaneous, 330-354.  
Taxes, assessment of, 11, 183, 185, 187, 192, 203, 211, 217, 224, 252; delinquencies in, 192, 195, 231, 235, 254; redemption of delinquent land, 195, 212; sale of land for non-payment of, 197-200, 212; state and local, 228, 233; assessment of railroads, 317, 327.  
Telegraph companies, taxation of, 238, 251, 340.  
Telephone companies, taxation of, 251, 341.  
Tod, J., 93.



Treasury bills, 15, 23, 27, 69, 145; administration and accountability, 145-174; department, present organization of, 172-174.

Treasurer, territorial, 13; state, 145.

Trimble, A., 30.

Uniformity rule of taxation, 222, 249, 353.

Valuation of property, in 1810, 188; in 1815, 29; in 1825 and subsequently, 205; table, 206; in 1834, 209; in 1840, 211; in 1847, 219; in 1854, 227; in 1859, 229; during Civil War, 233; in 1870, 236; in 1901, 247; quadrennial, 251, 253.

War of 1812, 25, 71; of Rebellion, 57; finances of Civil War, 91-95, 232-235; with Spain, 111.

Whitehill, J., 156.

Wolf scalps, bounties for, 77.

Worthington, T., 15.





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Municipal Revenues in Illinois

BY

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# TABLE OF CONTENTS

	Page
INTRODUCTION .....	7
CHAPTER I.	
PROPERTY TAXATION .....	11
Tax Levies .....	12
Exemption from Taxation.....	15
Method of Assessment and Collection.....	16
Property Taxes .....	17
Personal Property Taxes.....	21
Losses in Collection .....	24
CHAPTER II.	
LICENSES AND POLICE FINES.....	26
License revenue .....	26
Liquor licenses .....	26
General licenses .....	30
Business taxes .....	41
Vehicle licenses .....	43
Foreign fire insurance tax .....	45
Police fines .....	47
CHAPTER III.	
GIFTS, GRANTS AND SUBVENTIONS .....	55
School revenue .....	55
State grants .....	55
Endowment income .....	56
Tuition .....	56
Miscellaneous income .....	57
Gifts by individuals .....	57
CHAPTER IV.	
REVENUE FROM SERVICES RENDERED .....	58
Departmental receipts .....	58
Public service privileges .....	61
Special assessments .....	68

## CHAPTER V.

	Page
MUNICIPAL INDUSTRIES AND PROPERTY .....	73
Water plants .....	73
Electric light plants .....	86
Cemeteries .....	89
Libraries .....	90
City Hospitals .....	92
Street railways .....	93
Sewers .....	94
Real estate .....	94
Other city property .....	95
Interest on city funds .....	96

## CHAPTER VI.

LOANS .....	101
Bonded Indebtedness .....	101
Tax warrants .....	105
Floating debt .....	107

## CHAPTER VII.

SUMMARY AND CONCLUSIONS .....	110
BIBLIOGRAPHY .....	120
INDEX .....	121
MAP SHOWING LOCATION OF CITIES .....	126

## TABLES

	Page
1. Relation of Taxes to Total Income, Tax Rates and Per Capita Tax Income in 24 Illinois Cities in 1909.....	19
2. Assessed Valuation by Classes of Property and Total Assessment in 24 Illinois Cities for the Year 1909.....	20
3. Relation of the Assessments of Real and Personal Property to the Total Assessments in City and County, and the Relation of the City Personalty Assessment to that of City Lots, 1909.....	23
4. City Receipts from Town Collectors and County Treasurers, 1909	24
5. Number of Saloons, Population per Saloon, License Rates and other data relative to the Liquor Traffic in Illinois Cities, 1909..	28
6. Total and per capita Income from License Taxes, Illinois Cities, 1909 .....	34
7. Principal Licenses and Rates .....	36-37
8. Business Taxes, Rates and Total Income, 1909.....	42
9. Vehicle Licenses, Rates and Total Income.....	44
10. Total and Per capita Income from Foreign Fire Insurance Tax, 1909 .....	46
11. Disposal of Arrests in 5 Illinois Cities, 1909.....	50
12. Disposal of Arrests in Illinois Cities by Percentages.....	51
13. Statistics on Strength of Police Forces, Number of Arrests, etc., 1909 .....	53
14. Revenues of Specified City School Districts.....	56
15. Receipts from Fees, Inspections, Departmental Receipts, Charges, and other Miscellaneous Sources, 1909.....	58
16. Fee Offices and Methods of Reporting .....	60
17. Rates and Income from Franchises, 1909.....	63
18. Dates of Grant and Expiration of Franchises.....	65-66
19. Statistics of Municipal Water Plants and Cost per Hydrant in Illinois Cities, 1909.....	79
20. Statistics Relative to Cost of Operation per Million Gallons Pumped by Municipal Water Plants .....	80
21. Ratio of Operating Costs to Receipts in Private Water Plants..	83
22. Ratio of Operating Costs to Receipts and "Total of all Costs" in Municipal Water Plants .....	83
23. Statistics Relative to the Cost of Operation in Municipal Lighting Plants .....	86
24. Charges by Private Electric Light Plants for Arc Service.....	88
25. Income and Cost of Operation of Municipal Burial Grounds....	90
26. Statistics of Public Libraries, Illinois Cities, 1909.....	91



	Page
27. Receipts from City Real Estate.....	95
28. Balances and Receipts for General Funds, Special Assessments and Special Funds, 1909.....	98
29. Statistics Relative to Municipal Indebtedness, 1909.....	100
30. Sources and Totals of General Revenues, 1909.....	117
31. Sources of General Revenue, 1909, in Percentages.....	118
32. Ranking of Twenty-four Illinois Cities, 1909.....	119

## INTRODUCTION.

The purpose of this study is to examine the sources of municipal revenues in the state of Illinois, as typified by the budgets of a number of cities for the year 1909, noting the variations in the different municipalities and the means of revenue which are not fully utilized, so that all the financial revenues of any city may be made more available to the others.

As cities become larger the per capita cost of administration tends to increase. This does not necessarily mean that there is more waste or graft in the management of large cities than small ones; but that as more people come together, they find it advantageous to do in common many things which formerly each individual undertook for himself. In a village, each householder must occasionally be his own truant officer, his own sanitary inspector or his own sidewalk layer. In cities such duties are more effectively cared for by the public authorities. Kindergartens, medical and dental inspection of school children, charities, disease prevention, better sanitation, street and public lighting, parks, and other social welfare work make increased demands upon the local administration where many people are concentrated in a city.

At the same time the maximum legal tax rate in Illinois is the same for all cities; and growing municipalities find it necessary to seek for more sources of revenue other than property taxation. Such potential sources of revenue include liquor and business licenses, vehicle and insurance taxes, increased returns from police fines, fees and departmental receipts, and profits from municipal enterprises. In some cases enlarged expenditures are temporarily met by increased municipal indebtedness.

To secure data for this study, an examination was made of the budgets of twenty-four cities of over 8000

population, located in various parts of the state. Chicago has not been included, owing to the magnitude and special features involved in such a task, and also to the fact that a comprehensive study has already been made of its municipal revenues.<sup>1</sup> Questionnaires were sent to municipal officers; annual reports were received from nearly half of the cities; and personal visits were made to all but two,—Quincy and Joliet.

No one of these methods of inquiry proved entirely satisfactory. It was difficult to secure replies even to direct questions. No printed report gave a complete statement for a single city. In the cities visited, the data had to be secured from a number of officials. Nevertheless, a complete statement was secured from all but three of the cities examined covering the revenues for general purposes; and the omissions in the three cases are small and unimportant.

The general plan followed in the arrangement of material is that employed by the Bureau of the Census for tabulating the statistics of cities, a general outline of which is shown in the table of contents. Since, however, the cities included in this study are relatively small, with simple financial systems, it has not been possible to analyze the revenues with the same detail as the Census Bureau.

The figures used as a basis of the investigation are those of actual city incomes for the fiscal year 1909, rather than the revenues which legally accrued during the year. For example, delinquent taxes for this year do not appear, though they are really an asset and will ultimately be collected. In their place, however, appear the delinquent taxes of previous years which were paid during the period under consideration. Outside the field of taxes, this certainty of ultimate payment is not so great, a situation which illustrates the error of keeping city accounts upon a receipt and expenditure basis, rather than on a basis of legal accruals and liabilities. In one city only \$700 of

<sup>1</sup>C. E. Merriam: *Report on the Municipal Revenues of Chicago.*

\$900 license fees was paid within the fiscal year. Either the \$200 remaining will become an asset of the year following and will offset the expenditures of a year to which it does not belong, or it may drop out of the ken of the city treasurer and fail to be collected.

In addition to an analysis of the revenues received, an attempt is made to explain why some sources of revenue have not been utilized. In some cases, there has been local opposition to a particular form of taxation. In other instances, the cost of collection has been too large in proportion to the revenue received. In still other cases, a scientific and impartial collection of charges would result in increased revenue.

Further, there is included in this study considerable data not directly involved in city budgets, but of value to officials seeking to increase municipal revenues and as illustrations of facts which must be brought to the knowledge of officials if municipal government is to be progressively and permanently bettered. The more important data of this kind relates to the cost of operating municipal water and light plants, the time and date of expiration of public service franchises, the rates of license taxes, and the relation between the number of liquor licenses and the number of police.

A summary of the conclusions of this study of the municipal revenue system of Illinois is to be found in the concluding chapter of the text; but it may be of interest to note here that:

The maximum total tax rate (of one percent on the supposed full value of property) is inadequate to meet the needs of the modern city.

The percent of total income received from other sources than property taxation ranges from 60% in Joliet to 3% in Urbana.

Personal property estimated to equal real estate in value is paying only approximately one-third to one-fifth of its legal burden.



Cities which give a limited number of saloons the monopoly of the town's business, will lose from \$5,000 to \$10,000 a year unless they advance the license fee to a point where the cities will share in the monopoly profits.

Business taxes can be made to contribute ten per cent of municipal income without serious opposition.

The vehicle tax has proved a financial success in all of the cities in which it has been tried. In Evanston the return is over \$8,000 a year.

Departmental fees and charges could be made one of the more profitable sources of revenue but require more secure checks on the collection than exist at present.

Taxes on the franchises of public service corporations are being imposed as rapidly as existing franchises expire, and produce from \$1,000 to \$5,000 annually.

None of the cities investigated receive adequate interest upon public funds.

The operation of public water plants in a number of cities has been efficient and economical, but the rates are too low to pay a profit, and frequently do not even meet the cost of operation.

Street lighting could be done through municipal plants operated in connection with the water works at about one-half the price paid under private contract.

There is urgent need that the state authorities create some municipal clearing house of facts which will cooperate with cities in installing a gradual revision of the system of keeping city accounts, uniform city reports, and methods of publicity which will keep both officials and taxpayers informed of advances in municipal administration.

## CHAPTER I

### PROPERTY TAXATION.

The Illinois constitution of 1870 authorizes the general assembly to vest municipalities with the power to assess and collect taxes for corporate purposes.<sup>1</sup> However, this privilege is restricted by further constitutional provisions, which require that the levies be uniform in respect to persons and property; that privilege taxes be uniform as regards the class on which they operate; that the legislature must not impose taxes upon municipal corporations for corporate purposes; and place restrictions on the amount of municipal indebtedness.

The general municipal incorporation act of 1872, the revenue clause of which was amended in 1897 to apply to all cities incorporated in any manner,<sup>2</sup> gives to municipal councils the following powers:

- a—to control the finances and property of the corporation
- b—to appropriate money for corporate purposes only, and to provide for the payment of the debts and expenses of the corporation
- c—to levy and collect taxes on real and personal property for general and special purposes
- d—to fix the amount, terms and manner of issuing and revoking licenses; and
- e—to borrow money on the credit of the corporation for corporate purposes<sup>3</sup>

The revenue clauses of the incorporation act also prescribe the method of assessment and collection of taxes; provide that all municipal expenditures shall be included

<sup>1</sup>Constitution of 1870, Art. 9, par. 9.

<sup>2</sup>Hurd's *Revised Statutes* (1908) ch. 24, par. 283.

<sup>3</sup>*Rev. Stat.*, ch. 24, par. 62.

in an annual appropriation measure passed by the city council, and that no further appropriation may be made from taxes except upon a majority vote of the electorate;<sup>4</sup> that appropriations must precede tax levies, as well as contracts entered into by the city; and that the tax levy ordinance must state both the rate or amount and the purpose of the tax. The appropriation ordinance and the tax levy ordinance are required to be distinct, and the former must be passed first.<sup>5</sup> The levy ordinance is filed with the county clerk who calculates the rate required to raise the amounts; and if it is necessary, he is required to scale the rate down to keep the aggregate of all tax levies within the legal limit of three per cent of the assessed valuation, allowing to each taxing district its legal proportion.<sup>6</sup>

#### TAX LEVIES

Until 1909 the ordinary tax rate was limited to five per cent of one-fifth of the cash value of the taxable property. An amendment of that year raised the basis of assessment to one-third of the actual cash value, and made three per cent the legal tax limit.<sup>7</sup> This statute does not affect the real tax rate, but raises the debt limit sixty per cent.

<sup>4</sup>*Ibid*, ch. 24, par. 89.

<sup>5</sup>Peo. v. Florville, 207 Ill. 79.

<sup>6</sup>The method of scaling as prescribed by the Juul law is as follows: a total is found of the rates necessary to give the certified sum; the amount over three per cent is used as a numerator and the total percent as a denominator, each item being reduced in this proportion. Professor C. E. Merriam in his "*Report on the Municipal Revenues of Chicago*", (City Club of Chicago, Pub. No. 2, page 86) gives this example: "the West Town demands for tax levy (state, school building and special sanitary district excepted) aggregated in 1903, \$7.55 per \$100. These special rates were then scaled down 255-755, and the total thus reduced to five per cent."

<sup>7</sup>Laws of 1909, p. 308.

The taxes which cities may levy unrestricted by referendum are these:

For general purposes.....	1.2%
Interest and sinking funds....“a sum sufficient”	
Educational purposes .....	1.5%
School buildings .....	1.5%
Public libraries .....	.12%
Parks .....	.12%
Cyclone tax .....	.3%

The taxes to provide interest and sinking funds are limited by the constitutional provision that the total debt shall not exceed five per cent of the assessed valuation. Taxes for such purposes, however, furnish a means for evading the statute limiting taxes for general purposes to 1.2% of the assessed valuation. Not infrequently, cities incur permanent indebtedness for current expenses, and retire the bonds out of other than taxes for general purposes. Nearly four per cent of the municipal debt is of this nature.<sup>8</sup> An interest and sinking fund tax may also be levied to pay such school debt as was contracted before the passage of the general school act of 1889. In cities of over 100,000 population the library tax is limited to .06% of the assessed valuation; and in all cities under 1,500 population the library tax is included in the 1.2% tax for general purposes.<sup>9</sup>

The tax of .12% to provide for the establishment and maintenance of parks applies to cities having a population of less than 50,000,<sup>10</sup> a restriction which excludes only the cities of Chicago, Peoria, Springfield and East St. Louis. Within three of these municipalities park taxes are levied by the park districts, which are distinct taxing areas erected without particular reference to municipal boundaries. Such special taxing areas, which may also be created in smaller cities than those mentioned, are

<sup>8</sup>See ch. VI.

<sup>9</sup>*Rev. Stat.* ch. 81, par. 1.

<sup>10</sup>*Ibid.* ch. 105, par. 290.



of three kinds,—sanitary, park and pleasure drive districts. They are formed by a favorable popular vote called after a petition to the county clerk, the voting being within the boundaries specified, for or against the proposition.

The powers of the commissioners controlling these taxing districts have been changed frequently; and the confusion thus created has been added to by the Juul law of 1901 which consolidates and limits all of the tax levies within a city. The combined tax must not exceed the legal limit, which sometimes requires that the tax for one district shall be scaled down below the maximum in order that the aggregate tax for all purposes in another district fall within the legal limit.

The taxation of property is the natural result of the theory that all persons should be taxed according to their ability; and ownership of property and particularly of real estate, in communities which have not reached a high industrial development, is considered the most concrete expression of ability to pay and of the measure of benefit received from governmental activities. The *situs* of real property is permanent, and it is therefore possible to tax such property when owned by non-residents, in the same manner as that of residents.

Unoccupied tracts held for increment in value present a special problem. In some jurisdictions agricultural and unimproved property is exempted from taxation in whole or in part, and such exemptions have been sustained except in contravention of special constitutional provisions.<sup>11</sup> In Illinois no such exemptions are allowed by law, but vacant property in the shape of lands is not an important item in the assessed valuations except in a few cities. In East St. Louis such property stands in the ratio of one to three when compared with the assessment of city lots; in several municipalities the ratio is one to ten, but in the majority it is less than this. The assessment for lands and lots is presented in table No. 2.

<sup>11</sup>Connecticut, Indiana, Iowa, Maryland, Michigan, (with exceptions) Ohio, South Carolina and Tennessee.

The general rule for the taxation of personal property in Illinois provides for its assessment at the domicile of the owner; but some classes of tangible personalty are taxed *in situs*, and goods *in transitu* are assessed upon the owner at the place where the shipment originated. Intangible property is also subject to taxation, but credits may be offset by certain debts; and while franchise values are taxable no method of local assessment is prescribed. Illinois corporations, except mercantile and manufacturing, are assessed by the state upon the value of their capital stock, less the assessed value of tangible property as made by the local assessors. Capital stock not assessed in this fashion by the state board of equalization should be listed as personal property. Aside from the tax upon the capital stock of railroads incorporated within the state, railroads, must pay taxes upon their personal and real property, assessed principally by the state board of equalization, the valuation being apportioned to the counties to a large extent in proportion to mileage. The value of side tracks and railroad buildings is returned wholly to the district within which they are located; and personal property other than rolling stock is locally assessed.

#### EXEMPTIONS FROM TAXATION.

Exemptions from taxation in Illinois are fewer than in most states. The constitution authorizes the exemption by the legislature of real and personal property of states, counties and other municipal corporations, and such other property as may be used exclusively for agricultural and horticultural societies, schools, religious organizations, cemeteries, and for charitable purposes, when the exemption is made by general law.<sup>12</sup> By statute the legislature has provided for these exceptions, and also established other specific exemptions as follows,—school lands, not leased; fire apparatus; public markets; all state property; and property used by mechanical and phil-

<sup>12</sup>Const. Art. 9, par. 3.

osophical societies without profit.<sup>13</sup> A law exempting fraternal insurance funds was held unconstitutional,<sup>14</sup> as have been other acts attempting to exempt other classes of property not embraced in the constitutional provisions.

#### METHOD OF ASSESSMENT AND COLLECTION.

For the assessment of taxes there is elected an assessor in each town, except in those counties not under township government. In these latter localities the county treasurer acts as assessor, the deputies being appointed by the county board. In the spring of the year valuation is made of the property within each taxing district, the owner being required to fill out a schedule of personal property. Once in four years real property must be viewed for assessment. The results both as to real and personal values are certified to the county clerk, who corrects all apparent errors. The county boards of review revise assessments upon request of the owner; hear complaints of overvaluation; and may correct any inequality among townships, provided the grand total of assessments is not diminished. The assessments are then certified to the state auditor who transmits them to be passed on by the state board of equalization. This board may equalize total valuations among counties by increasing or reducing the local assessments by not more than ten per cent. The final results are certified back to the county clerks, who estimate and spread the taxes<sup>15</sup> on the tax collectors books.

In counties under township government, the county treasurer is *ex officio* county collector, and receives from the town collector state and county taxes; and also collects delinquent city taxes and special assessments. In counties not under township government the sheriff is *ex-officio* collector of taxes. Taxes are due the first of January; personal property taxes must be paid by March first; and

<sup>13</sup>*Rev. Stat.* ch. 120, par. 2.

<sup>14</sup>*Modern American Fraternal Order v. Board of Review*, 223 Ill. 54.

<sup>15</sup>*Rev. Stat.* ch. 120, par. 128.

all taxes on real property become delinquent on June first. In cases of unpaid taxes, after certain notice and advertisement, application is made to the county court for judgment. Upon judgment being given (from which an appeal may be taken to the Supreme Court if bond for costs is given), the property or a necessary portion of it is advertised for sale. The property is then sold to the person bidding the delinquent taxes plus the least per cent for penalty. Property so sold may, however, be redeemed at the office of the county clerk within two years, upon payment of the delinquent tax, subsequent taxes and assessments, and the penalty, this last being graduated from that bid to four times that sum during the last six months of grace.<sup>16</sup>

#### PROPERTY TAXES.

The foregoing is a meager outline of the system of taxation as applied to municipalities in Illinois and may make clearer a review of the workings of the property tax.<sup>17</sup>

In tables 30 and 31 is a statement of the amount of property tax received by each of the twenty-four cities in Illinois for which data was secured, and the relation of such sums to the total amount of municipal income for the year 1909. The tax rates are given in table 1, and with them the ratios of taxes to the total city incomes from which all commercial revenues except those producing a profit have been subtracted. In three instances<sup>18</sup> the net profit from commercial enterprises is included in the total income. The city which receives the least proportion of its revenue from property taxes is Joliet, the return of 40.1 % of the whole income. Streator follows with 51.25 % ;

<sup>16</sup>Rev. Stat. ch. 120, par. 182-210.

<sup>17</sup>A more complete outline will be found in *A Report on the Taxation and Revenue System of Illinois*, prepared for the Special Tax Commission of Illinois by John A. Fairlie. A compilation of *Tax Laws and Judicial Decisions* accompanies the report of the commission.

<sup>18</sup>See Table 10.



while the maximum percentage received is 97.6% in Urbana. The average is 68.1%. For comparison it is interesting to separate the cities receiving saloon licenses from those which do not. In the seven no-saloon license cities<sup>19</sup> the average of the total revenue received from property taxation is 86.2% while the average for the remaining cities is 60.5%.

A more interesting comparison of the taxes received by cities for general purposes is upon a per capita basis. Though such a relationship is inaccurate inasmuch as population is not a direct creator of taxes, yet population does have a direct influence upon the cost of government. The minimum per capita general tax is in Streator, the amount being \$2.33 per person. The next lowest is \$2.76 in Joliet; while the highest rate is \$8.34 in East St. Louis. In this comparison the no license cities do not hold so unfavorable a position in the matter of taxation, the average rate for the seven municipalities being \$4.62 per capita. The average for the remaining corporations is \$4.50—not a considerable difference.

A third and more frequent method of considering city finances is a comparison of the tax rates. In table 1 is shown the general rate for each city for each \$100 of assessment (including administrative, library, sanitary, park, bond and interest taxes); the complete school rate; and the total rate. The highest rate for general purposes is in Quincy, \$2.37. La Salle follows with \$2.15; while the smallest is \$1.25 in the "dry" city of Rockford. Cities having no saloons stood highest in the average per capita tax, yet with the exception of Urbana their tax rates are quite normal. This lack of relationship between the tax rate and the per capita tax income, coupled with the fact that cities in which a high tax rate should be anticipated have quite the contrary, may be due to one or both of two causes: variation in the basis of local assessments, or in the per capita wealth of the several cities.

<sup>19</sup>Champaign, Decatur, Evanston, Galesburg, Jacksonville, Rockford and Urbana.

TABLE I.

RELATION OF PROPERTY TAXES TO TOTAL INCOME,<sup>1</sup> TAX RATES AND PERCAPITA TAX INCOME IN 24 ILLINOIS CITIES IN 1909.

	Percent of Total income <sup>1</sup>	Per capita Tax (general)	General Tax Rate	School Rate	Total Rate	Per capita Realty Assessment	Per capita Personalty	Total Ass't.
Alton .....	57.8	\$3.42	\$1.42 <sup>2</sup>	\$2.00	\$3.42	\$158	\$84	\$242
Aurora .....	70.0	4.80	1.70	1.51 1.45	3.21 <sup>4</sup>	208	75	283
Belleville .....	54.7	3.76	1.60	1.85	3.45	157	52	209
Bloomington ...	61.5	4.26	1.53	1.72	3.25	242	78	320
Champaign .....	92.0	3.88	1.34	1.92	3.26	216	86	302
Danville .....	56.0	3.67	1.46	1.20	2.66	181	91	272
Decatur .....	83.7	4.02	1.67	2.76	4.43	169	71	240
E. St. Louis.....	71.0	8.34	1.48 <sup>3</sup>	1.90	3.38	195	27	222
Elgin .....	71.4	4.58	1.33	1.90	3.23	202	122	324
Evanston .....	65.1	5.38						
Freeport .....	62.2	3.80	1.49	1.95	3.44			
Galesburg .....	91.8	5.58	1.57	1.69	3.26	217	72	289
Jacksonville ....	85.8	3.76	1.40	2.00	3.40	192	77	269
Joliet .....	40.1	2.76	1.40	1.85	3.25	155	48	203
LaSalle .....	52.3	3.41	2.15	1.80	3.95	121	41	162
Moline .....	61.0	4.44	1.93	2.42	4.35	154	81	235
Ottawa .....	55.7	5.20	1.95	2.00	3.95	152	98	280
Peoria .....	65.5	5.18	1.78	1.87	3.65	223	68	291
Quincy .....	70.0	6.50	2.37	1.42	3.79	117	49	166
Rockford .....	87.7	4.72	1.25	1.07	2.32	260	116	376
Rock Island ...	64.5	4.37	1.85	1.93	3.26	183	57	240
Springfield .....	64.0	5.68	1.81	1.73	3.54	233	81	321
Streator .....	51.3	2.33	1.30	2.10	3.40	135	51	186
Urbana .....	97.6	5.02	2.03	2.61	4.64	203	50	253

<sup>1</sup>Excluding commercial revenue, except net profit.

<sup>2</sup>1910.

<sup>3</sup>\$1.83 sanitary tax extends over a limited area.

<sup>4</sup>Larger proportion.

TABLE 2

ASSESSED VALUATION BY CLASSES OF PROPERTY AND TOTAL ASSESSMENT IN 24 ILLINOIS CITIES FOR THE YEAR 1900.

City	Total	Real	Land	Lots	Railways	Tel. & Tel.	Personal
Alton .....	4,250,096	2,709,370	None	2,466,100	303,270	33,536	1,477,190
Aurora .....	8,444,493	6,210,925	130,407	5,550,053	530,465		2,233,568
Belleville .....	4,417,330	3,321,186	150,391	2,968,705	188,790	13,300	1,096,144
Bloomington .....	8,258,004	6,220,595	693,442	5,125,067	402,086	20,064	2,017,345
Champaign .....	3,748,052	2,685,068	41,785	2,466,493	50,790	12,000	1,002,084
Danville .....	7,599,368	5,060,279	543,990	4,975,843	540,446		2,530,080
Decatur .....	7,481,484	5,240,184	250,431	4,759,885	229,868	34,114	2,207,186
E. St. Louis.....	13,007,080	11,436,106	2,292,148	6,848,503	1,903,732	391,723	1,570,974
Elgin .....	8,434,961	5,226,127	83,026	4,948,672	177,136		3,226,127
Galesburg .....	6,370,244	4,789,480	203,070	4,117,756	468,654	22,035	1,580,704
Jacksonville .....	4,133,865	2,943,522	51,446	2,729,380	162,676	21,208	1,160,135
Joliet .....	7,044,265	5,385,956	None	5,071,718	314,238		1,658,309
La Salle .....	1,874,406	1,403,555	90,200	1,230,122	83,233		470,851
Moline .....	5,702,067	3,737,721	336,478	3,085,511	315,732		1,904,346
Ottawa .....	2,385,836	1,453,332	30,445	1,313,031	109,846		932,514
Peoria .....	19,568,578	14,992,937	215,600	13,920,315	867,022		4,515,641
Quincy .....	6,102,393	4,287,629			239,992		1,814,764
Rockford .....	17,094,294	11,790,526	1,067,481	10,109,779	550,798	62,568	5,303,668
Rock Island .....	5,845,494	4,469,492	160,658	4,017,844	290,990		1,390,002
Springfield .....	16,227,255	12,054,490	None	11,551,060	502,884		4,172,765
Streator .....	2,652,072	1,922,533	10,767	1,649,470	262,295		729,539
Urbana .....	2,082,648	1,673,004	13,853	1,528,213	124,898	6,000	415,684

## PERSONAL PROPERTY TAXES.

It is quite possible that variable standards of real property assessment prevail in different municipalities, but these cannot be ascertained without a more intensive investigation than has here been possible. It is even more probable that there is an inequality of personal property assessments,<sup>20</sup> which may be shown through a comparison with the assessments of the cities.

Table 2 is an exhibit of the property assessment of the cities considered giving the assessments in the classes under which they are returned. In table 3 is the ratio of the real and personal assessment to the total assessment in each city, as compared with the ratios in the counties in which these cities are located,<sup>21</sup> as well as the ratio of personal property to the assessed value of city lots. That these ratios would have a considerable range would be anticipated, since sections of the state vary widely in the amount and nature of their wealth. That this variation is greatest within cities is apparent. Of the assessed valuation in counties, the proportion of personal property to real estate is least in Champaign county, being 16.8% of the total, the greatest in Kane county, where it constitutes 27.87% of the total assessment. Thus the variation has a range of 11.07% of the whole. The least proportion of personal property in cities is in East St. Louis, 13.5%; while the largest proportion, 39%, is in Ottawa. The variation is 25.5% of the whole, or twice the variation as between counties. Large manufacturing or railroad properties situated in a locality would tend to increase the real property ratio, but cannot account for the entire difference. That the method of assessing personal property is to a large extent responsible for this is proven by comparing two corporations of a homogeneous character, as the contiguous cities of Champaign and Urbana. In the former, personal property constitutes 28.9% of the total assess-

<sup>20</sup>Fairlie, *supra cit*, p. 41.

<sup>21</sup>*Biennial Report of the Auditor of Public Accounts* (1908) p. 154.



ment, while in the latter it is only 19.7%. Similarly, the Rock Island assessment has 23.5% in personalty, while in the adjacent city of Moline 34.5% of the property is personal. Elgin and Aurora are cities of similar size and nature, in the same county; personal property amounts to 38% of the total assessment in one, and to only 26.2% in the other.

In order to eliminate any bias which might occur by including vacant lands and railroads in the real property assessment, the personal property of each city has also been compared with the assessed value of city lots. It was, however, impossible to separate telegraph and telephone values from the personalty, as was desirable for this comparison. By this method, Ottawa still had the largest proportion of personal property, 41.5% of the total; Urbana had least, 21.6%. The range of variation was 19.9%, or several percent less than in the comparison made with the total real property.

The variation in assessments is further emphasized by a review of the per capita assessments of real and personal property in each city. In two cities in which the real property assessment ranges from \$202 to \$203 per person, the per capita assessment of personal property varies from \$122 to \$50; and in seven cities in which the real property assessment varies from \$155 to \$195 per capita, the personalty assessment varies from \$27 to \$91.

These figures indicate the danger of accepting the city tax rate as testimony of the cost of administration. Rockford has the lowest tax rate for general purposes of the cities considered, yet has a per capita assessment almost double the average for the state. Quincy with the highest tax rate for general purposes is among those having the smallest per capita assessment.

Though the amount of personal property varies in each community, the facts indicate that several cities are collecting taxes on much less than the tangible personal property within their jurisdiction. Under such conditions

an increase of city revenues may be more or less easily secured by action of the township assessor and the county board of review.

TABLE 3.

RELATION OF THE ASSESSMENTS OF REAL AND PERSONAL PROPERTY TO THE TOTAL ASSESSMENTS IN CITY AND COUNTY, AND THE RELATION OF THE CITY PERSONALTY ASSESSMENT TO THAT OF CITY LOTS.

		County 1907		City, 1909			
City	County	Real	Personal	Real	Personal	Personal to Lots only	
						Real	Personal
Alton .....	Madison ...	73.44	26.56	65.2	34.8	62.2	37.8
Aurora .....	Kane .....	72.13	27.87	73.8	26.2	71.5	28.5
Belleville .....	St. Clair ...	80.30	19.70	75.2	24.8	73.0	27.0
Bloomington ....	McLean ....	80.12	19.88	75.3	24.7	71.5	28.5
Champaign .....	Champaign .	83.18	16.82	71.1	28.9	69.6	30.4
Danville .....	Vermilion .	79.90	20.10	65.3	34.7	66.1	33.9
Decatur .....	Macon .....	80.94	19.06	70.0	30.0	68.0	32.0
E. St. Louis ....	St. Clair....	80.30	19.70	86.5	13.5	77.6	22.4
Elgin .....	Kane .....	72.13	27.87	62.0	38.0	60.5	39.5
Evanston .....	Cook .....	77.20	22.80				
Freeport .....	Stephenson .	76.14	23.86				
Galesburg .....	Knox .....	76.50	23.50	75.0	25.0	72.0	28.0
Jacksonville ....	Morgan ....	79.44	20.56	71.5	28.5	69.7	30.3
Joliet .....	Will .....	81.00	19.00	76.5	24.5	73.8	26.2
LaSalle .....	LaSalle ....	82.56	17.44	75.0	25.0	71.5	28.5
Moline .....	Rock Island	78.07	21.93	65.5	34.5	61.2	38.8
Ottawa .....	LaSalle ....	82.56	17.44	61.0	39.0	58.5	41.5
Peoria .....	Peoria .....	80.44	19.56	76.9	23.1	75.7	24.3
Quincy .....	Adams .....	72.20	27.80	70.2	29.8		
Rockford .....	Winnebago .	74.94	25.06	69.0	31.0	65.4	34.6
Rock Island .....	Rock Island	78.07	21.93	76.5	23.5	74.6	25.4
Springfield .....	Sangamon .	80.63	19.37	74.0	26.0	69.0	31.0
Streator .....	LaSalle ....	82.56	17.44	72.6	27.4	77.9	22.1
Urbana .....	Champaign .	83.18	16.82	80.3	19.7	78.4	21.6

## LOSSES IN COLLECTION.

Another cause of considerable loss to cities is that of interest on delinquent taxes. The average term of municipal loans made in anticipation of taxes is about five months, or only a trifle longer than that allowed for the collection of taxes. The township collector relinquishes his books on the tenth of March and the duty of collection passes to the county treasurer, thus necessitating duplication of the collection machinery. An idea of the importance of this latter officer in the collection of delinquent city taxes may be gained from the following exhibit, which gives the sums received by a number of cities during the fiscal year 1909 from the two collecting agents, and the percentage of the total receipts accredited to each. It has been suggested that one of these agents be eliminated with a view of lessening the expenses of collection.<sup>22</sup>

TABLE 4.

CITY RECEIPTS FROM TOWN COLLECTORS AND COUNTY TREASURERS, 1909.

City	Town Coll.	Per Cent	County Coll.	Per Cent
Evanston .....	\$73,889	53.3%	\$64,757	46.7%
Joliet .....	61,347	49.6	62,392	50.4
Ottawa .....	39,390	71.8	15,419	28.2
Peoria .....	218,022	75.2	71,538	24.8
Rockford .....	66,320	43.6	131,861	66.4

One of the fixed charges in the collection of taxes is the percentage going to the collector for remuneration; to which may be added the fee of the county clerk for extension. In addition to the 2% collection fee, in Freeport the reserve for the loss through unpaid taxes and cost of collection of delinquent taxes was 1.1% of the total levy, or a total of 3.1%. Evanston, in addition to the charges of the collector, paid the county treasurer .03% of the total for the extension of the levy, and .92% of his collections as a commission. Based upon the amount levied, 1.46% was deducted for the cost of collection, .032% for clerk's fees; and 4.78% was uncollectable, making the

<sup>22</sup>Fairlie, *Taxation and Revenue System of Illinois*, p. 17.

theoretical net income to the city 93.728% of the levy. Of the losses the largest item of 4.78% was diminished a fraction of a percent by the payment of back taxes. Through back taxes and the extension of the levy specified in the ordinance, the city received 94.5% of the sum requested. The same city realized 93.4% of the library taxes levied, 4.18% of the loss being in uncollectable taxes. The amount of back taxes received was only .01375% of the total levy.

Thus far no reference has been made to the Road and Bridge tax which by the law of 1883<sup>23</sup> may be assessed in each township. Under this provision one-half of such receipts are returned to the cities in the township for the building and repair of roads. By an act of 1909<sup>24</sup> the statute was changed so that cities over 20,000 were to receive all such taxes levied within their boundaries, which was deemed a more equitable distribution. There has been, however, some question as to the legality of the change. In Danville the city was not allowed to come into possession of the funds; and Rockford has been sued by the township highway commissioners for \$60,000, which was received by the city. In table 30 in a statement of the shares of the Road and Bridge tax which came to the cities in 1909. Owing to the present legal situation, comment would be useless.

<sup>23</sup>*Rev. Stat.* ch. 121, par. 16.

<sup>24</sup>Laws of 1909, p. 332.



## CHAPTER II

### LICENSES AND POLICE FINES.

#### LICENSE REVENUE.

License charges are legally of two kinds,—those relating to occupations and industries which may be absolutely prohibited, and those upon industries which only permit of regulation. A more practical division, however, is made upon the basis of financial return to the municipality, liquor licenses being placed first, followed by general licenses, business licenses and the vehicle tax. It is in this order that they are discussed.

#### *Liquor Licenses.*

The power of the legislature to tax the traffic in intoxicating liquors is enumerated in the constitution of the state<sup>1</sup> and was delegated to municipalities by the general act of 1872.<sup>2</sup> This act gave to city councils the right to regulate, license and prohibit the selling of malt, mixed or fermented liquors, any license not to extend beyond the municipal year in which it was granted. It is further provided that cities must, in licensing, conform with the general state laws in force.

There are now a number of state statutes, providing among other things, that the minimum license for a shop where the aforementioned liquors are sold at retail shall be \$500 per year, which sum shall be collected in advance for such periods as the city council may designate. Licenses for the sale of malt liquors may not be granted for less than \$150 per year. There are no state laws concerning the wholesale liquor trade. The imposition of a license on these dealers lies in the discretion of the municipal councils.

<sup>1</sup>Const. of 1870, Art. 9, par. 1.

<sup>2</sup>Hurd's *Revised Statutes*, (1908), ch. 24, par. 62, item. 46.

When a license is required, the penalty for operating without one is a fine of from \$50 to \$150, the possession of a government permit being *prima facie* evidence of the sale. Any license is subject to revocation should the owner maintain more than one saloon, or permit disorderly conduct or gambling.

The holder of a dramshop license is required to provide a bond of \$3,000 to cover any damages which may be sustained by reason of his selling intoxicating liquors; and he may be required to support a person kept in a state of continual intoxication. The rights of an injured person, his heir or employer, may be enforced against the owner of the building in which the offending saloon is located.

Certain matters of regulation are left to the local authorities, among which are eligibility for a license, maximum cost of the license, distribution of the license money, periods of payment, limitation of the license district and restriction of the number of saloons.

Table 31, giving the percentage of total city income received from liquor licenses, ranging (in license cities) from 20.7% in Aurora to 41.3% in Streator, shows the importance of such revenues to municipalities. It will be generally admitted that the presence of saloons is not an unmitigated benefit, yet city revenue systems have been constructed with a view of large incomes from this source. The problem of saloon licensing is therefore one of securing the maximum revenue with the least harmful results.

Table 5 states the number of saloons in each city, population per saloon, license rate, license income per inhabitant, periods of license payment, restrictions upon the saloon district, and upon the number of saloons. It is usually accepted as true that a high license rate reduces the number of saloons and increases the amount of revenue. While this is a reasonable proposition it cannot be proved by a comparison of the per capita license income in high and low license cities. That a city has a high license is indicative that its population is not given to the large sup-

port of saloons, and hence the number is automatically limited. Further, six of the seven cities which charge more than \$500 for a license place an arbitrary restriction upon the number of licenses issued.

TABLE 5.

NUMBER OF SALOONS, POPULATION PER SALOON, LICENSE RATE, AND OTHER DATA RELATIVE TO THE LIQUOR TRAFFIC IN ILLINOIS CITIES, 1909.

City	No. of Saloons	Pop. per Saloon	License Rate	Lic. income per inhab.	Periods of Payment	Restriction of District	Restriction of Number
Alton .....	68	257	\$500	1.72	Annual	"Usual"	None
Aurora ....	42	710	1000	1.43	Semi-ann. <sup>2</sup>	Fire limits	1000 pop. <sup>4</sup>
Belleville ..	113	187	500	2.63		None	None
Bloomington	76	339	600	1.86	Quart.	None	None
Danville ....	76	366	800	2.39	Quart.	Bus. Section	500 pop. <sup>4</sup>
Decatur <sup>1</sup> ...	48	648	1000	1.54	Semi-ann.	Bus. Section	None
E. St. Louis.	343	171	500	2.65	Quart.	"Discretion of Mayor"	None
Elgin .....	34	764	1000	1.31	Semi-ann.	Fire limits	33 for 25,000 1 per 1,000 add.
Freeport ...	46	382	500	1.30		Bus. Section	None
Joliet .....	136	255	1000	3.92		"Usual"	500 pop. <sup>4</sup>
LaSalle ....	57	202	500	2.70	Annual	"	250 pop. <sup>4</sup>
Moline .....	63	384	1002	2.60	Semi-ann.	None	500 pop. <sup>4</sup>
Ottawa ....	49	194	500	2.65	Quart.	None	49 Saloons
Peoria .....	300	223	600	2.05	Quart.	None	400 pop. <sup>4</sup>
Quincy .....	145	252	500	1.98			
Rockford <sup>1</sup> ..	50	908	1000	1.14	Semi-ann.	Bus. Section	1000 pop. <sup>4</sup>
Rock Island.	96	253	500 <sup>2</sup>	1.97	Semi-ann.	None	None
Springfield .	200	258	500	2.10	Annual	"Usual"	None
Streator ....	65	219	500	1.87	Quart.		66 Saloons

<sup>1</sup>1910—"Dry" during period studied.

<sup>2</sup>Now \$600.

<sup>3</sup>Bond given for last installment.

<sup>4</sup>Limit will become operative only when population increases.

<sup>5</sup>No saloons in residence district except those already there.

Ten of eighteen cities so restrict the number of licenses issued, eight of these limiting upon the basis of population. In most cases, however, the number of saloons exceeds the number the restriction would normally allow, and there must be a large increase in population before there can be an increase in liquor shops. In Elgin and Decatur an arbitrary minimum of saloons was fixed, any increase to follow an increase in population. In each instance of restriction of number, the licenses already issued assume a monopoly value. Since the municipality has limited its own income incidental to this, it appears reasonable that such increment should be turned to the city treasury. An example of such loss accompanying the limiting of the number of saloons is found in LaSalle, where the number was decreased from 66 to 57, involving a shrinkage in license fees of \$4500. A similar decrease in income was experienced in Rockford, which city actually restricted the number of saloons to one for each 900 inhabitants; while Decatur, a city with a similar class of citizens and a similar attitude toward the liquor question, supports one saloon for each 600 people.<sup>3</sup> On this basis the former city was losing by restriction of the number of licenses the revenue of twenty saloons, or \$20,000. As the saloons established were approximately transacting the business which might be done by twenty more, they should bear the loss incurred by the city by reason of the monopoly allowed. This would raise the license rate in Rockford to \$1400 per year.<sup>4</sup>

More than one-half of the cities studied restrict the license district to the fire limits or to the business district. In the others the only check upon location is the usual legislative provision concerning frontage signatures. Saloons in the residence districts naturally increase the license revenues, but have many objectional features in addition to necessitating a direct increase in the police force.

<sup>3</sup>Both cities went "no license" in 1908; have since gone "wet" and enacted stringent laws regarding the sale of liquor. Rockford in 1912 again reversed its position.

<sup>4</sup>Similarly an equitable license rate in Elgin would be \$1175; and in Aurora \$1100.



Of fifteen cities two require that the license fee be paid annually; six, semi-annually; and the remainder, quarterly. Under a system by which cities do not receive interest upon their funds on deposit, there is little object in requiring that the license payment be made at the beginning of the year. However, the interest upon the considerable sums of license money would amount to several hundred dollars per year for each city, were licenses paid at the beginning of the year and interest collectable.

It has been mentioned that the law requires licenses to be paid for in advance. In Chicago, thru neglect to enforce this provision, losses were formerly large.<sup>5</sup> Saloons neglected prompt payment, and if going out of business paid only a prorata for the time open. In the smaller cities of the state this is never the case. Of nineteen cities, sixteen require that the fee be paid strictly in advance; two, (Ottawa and Rock Island) allow from a few days to a week of grace, and in only one city (Springfield) were payments reported seriously in arrears.

Nor do refunds make any considerable inroads into the sums collected. Five cities reported refunds of saloon licenses: Rockford, to the amount of \$478; Rock Island, \$250; and Peoria, \$1083.<sup>6</sup> This last city refunds only in case of unavoidable accidents,—“an act of God”. Springfield refunds for the same reason; Decatur also refunds; but in these last two cities the refunded amounts could not be obtained.

#### *General Licenses.*

The authority to require other licenses as a means of revenue is also derived from the constitution. The legislature is granted the power to tax by general law, peddlers, auctioneers, brokers, hawkers, merchants, commission merchants, show men, jugglers, inn keepers, and grocery keepers; toll bridges and ferries; insurance brokers; telegraph and express interests; vendors of patent

<sup>5</sup>Merriam, *Municipal Revenues of Chicago*, p. 115.

<sup>6</sup>Includes refunds of taxes.

medicines; and persons owning and using franchises and privileges.<sup>7</sup> Such taxation is definitely authorized by law for purposes of revenue, and hence is not dependent for its legality upon police powers.

By a series of acts, the legislature has authorized municipal licensing of nearly every occupation which partakes of a public or quasi-public character, enjoys special privileges, or requires police supervision.<sup>8</sup> It is impractical to make an accurate calculation of the value of a privilege which an occupation may enjoy, but such occupations are the object of an easily imposed and collected tax. Expediency in taxation is frequently paramount to absolute justice. In any event the incidence of license taxes is often shifted to some extent, and in all probability works no greater injustice than other frequent forms of taxation.

By statute cities have acquired the right to license, regulate and suppress the following occupations and businesses,<sup>9</sup>—wharf boats and tugs used about harbors or within the jurisdiction of the same; hawkers, peddlers and pawnbrokers; keepers of ordinaries, theatrical and other exhibitions, shows and amusements, billiard and pool tables; bowling alleys; and transient vendors of merchandise.<sup>10</sup>

The privilege of peddling merchandise is given to ex-union soldiers free of charge upon demand and after presentation of proof of army service;<sup>11</sup> and every farmer, fruit and vine grower has the right to sell his own produce where such articles are usually sold without a city

<sup>7</sup>Const. Art. 9, par. 1.

<sup>8</sup>"Altho a constitution grants to a legislature the power to impose certain classes of occupational taxes which are enumerated, it may delegate to municipal bodies the power to impose for municipal purposes, taxes which are not included in the constitutional enumeration." *Wiggins v. Chicago*, 6 Ill. 372.

<sup>9</sup>The courts have held that the legislature may delegate its power to the local authorities by general law. See *Braun v. Chicago*, 110 Ill. 100.

<sup>10</sup>*Rev. Stat.* ch. 24, par. 62, items 35, 41 *et seq.*

<sup>11</sup>*Ibid* ch. 24, par. 651.

license, any ordinance to the contrary notwithstanding.<sup>12</sup> The streets, however, must not be obstructed nor the liquor laws violated. The licensing of houses of prostitution or the medical inspection of the same is expressly forbidden.

Municipalities are granted the right to license and to regulate, but not to suppress, in the following instances,—runners for stages, cars and public houses; wagons and other vehicles conveying loads within the city, or any particular class of such wagons and other vehicles, and to prescribe the width of tire for the same;<sup>13</sup> hackmen, draymen, omnibus owners, carters, cabmen, porters, expressmen, and all others employed in like occupations, and to prescribe their compensation; second-hand<sup>14</sup> and junk stores, and to forbid them from purchasing and receiving from minors; auctioneers; distillers and brewers; lumberyards, livery stables, public scales, blacksmith shops, foundries, and brokerage shops. Dogs may be taxed and restrained. Elevator operators and plumbers may also be examined and licensed, and an additional license may be imposed upon plumbing establishments.<sup>15</sup> The license fee on vehicles when collected must be kept in a separate fund and used only for paying the cost and expense of street and alley improvement and repair.<sup>16</sup>

Foreign insurance companies are required "upon demand to pay into the treasuries of the cities in which they have agents, not more than two percent of the gross receipts upon the insurance in force within the boundaries of the municipality."<sup>17</sup>

Not all of the license income received is turned into the general treasury of the city collecting it. In municipalities having more than 50,000 inhabitants the firemen's relief fund is the recipient of one-half of the fire insurance

<sup>12</sup>*Rev. Stat.* ch. 5, par. 23.

<sup>13</sup>*Ibid* ch. 24, par. 62, items 43, 96.

<sup>14</sup>Does not include book stores. *Eastman v. Chicago.* 79 Ill. 178.

<sup>15</sup>*Rev. Stat.* ch. 24, par. 62, item 42 et seq.

<sup>16</sup>For constitutionality see *Harder's Fire Proof Storage and Van Co. v. Chicago.* 235 Ill. 58.

<sup>17</sup>*Rev. Stat.* ch. 24, par. 423.

tax.<sup>18</sup> Also the police pension fund in such cities is made up in part of three-fourths of the dog tax, three percent of all other city licenses up to \$2500, and the fines from the violation of the police ordinances. In cities of smaller size the police pension fund consists in part of three-fourths of the dog tax, two percent of the saloon licenses (upon vote of the citizens), ten percent of the city ordinance fines and ten percent of all other licenses, the total not to amount to more than \$2500 in a year.<sup>19</sup>

Table 6 is a statement of the total income from all licenses (except wheel and insurance taxes) for the year 1909 in the cities under consideration; of this income classified according to the more important sources; and of the per capita income excepting that from saloons. Where the income is not separated into its several sources the information was not available. The division of "other licenses" consists of scattering miscellaneous licenses and the more important business taxes which are considered later.

The most striking feature of the table is the wide variation in the percapita income from general licenses which ranges from as low as four cents per person in Ottawa, to thirty-five cents in East St. Louis.

The largest of these variations is accounted for by the collection of business taxes in certain cities, but the variation among others is sufficient to demonstrate the desirability of systematic licensing and collection.

It is evident that general licenses can be depended upon to contribute annually from \$1000 to \$5000 of the municipal income providing there is a proper system of levy and collection. Unfortunately no plan has been advanced to insure payment, other than that of tagging, which can be employed only in special cases. In frequent instances the enforcement of certain licenses has been allowed to lapse entirely. An example of this is the tax on dogs, which if effectively applied will produce \$1000 a year in cities of even moderate size. In Rockford the tax is author-

<sup>18</sup>*Rev. Stat.* ch. 24, par. 382.

<sup>19</sup>*Rev. Stat.* ch. 24, par. 391.



TABLE 6

TOTAL AND PER CAPITA INCOME FROM LICENSE TAXES, ILLINOIS CITIES, 1909

City	Per Capita income aside from Liquor	Total License Income	Liquor	Druggists	Theatre and Amusements	Billiard, Pool, Bowling, and Shooting Galleries	Dogs	Peddlers and Itinerant Merchants	Draymen and Hacks	Other Licenses
Alton . . . .	\$.31	\$36,173	\$30,684	\$ 37	\$ 370	\$ 265	\$1,106	\$ 75	None <sup>1</sup>	\$3,634
Aurora ..	.10	45,974	42,824			935	None	400	\$ 230	1,585
Belleville .	.18	60,442	55,691	120	246	718	804	240	None <sup>1</sup>	2,621
Bloom'n ..	.17	52,549	47,900	180	518	1,130	None	705	455	1,659
Champ'n .	.16	1,994	None	None	583	1,040	None	161	201	None
Danville .	.11	70,645	66,600	None	900	306	None	755	110	904
Decatur ...	.10	3,191	None	None	762	410	375	1,361	263	1,483
E. St. Lo's	.35	179,809	155,410	798	861	120	2,081	4,295	None <sup>1</sup>	16,243
Elgin .....	.12	37,114	34,000				870			
Evanston .	.22	5,510	None				2,187			
Freeport ..	.11	25,160	None		4.87		542			
Galesburg	.10	2,529	None				238			
Jack'ville...	.05	876	None	None	250	520	None		None	106
Joliet .....	.07	139,045	136,000	160	550	919	666	320	101	1,075
LaSalle ...	.13	34,400	33,110	None	265	None	260	370	87	308
Moline ....	.14	66,226	63,126						370	3,130
Ottawa ....	.04	25,680	25,250	90			110			
Peoria .....	.18	149,300	137,307	1,144	1,587	925	1,940	1,674	538	3,141
Quincy .....	.21	80,091	72,500				1,928			
Rockford .	.09	4,056	None							
Rock Isl'd	.14	51,697	48,025	90	965	560	176	868	243	770
Springf'd	.14	115,604	108,435	613	851	96	None	609	317	4,682
Streator ...	.06	27,764	26,750	None	225	340	103		90	256
Urbana ...	.05	405	None	None	100					

<sup>1</sup>Included in wheel tax.

Absence of data does not necessarily signify that no such tax is required, but may mean that the amount collected was so small as to be reported under "other licenses."

ized, but the ordinance is a "dead letter". Such a condition is better, however, than the unequal enforcement of the law in Ottawa, Galesburg, Streator, and more strikingly in Rock Island. Each of these cities except Streator has a larger population than Freeport, yet no one of them received an amount from dog taxes equal to half that collected in the last named city.

On the other hand, an example of a license which is almost uncollectable is that on hotel "runners" or porters. Peoria, with its numerous hotels, received three dollars in 1909 from this source. In Rockford no attempt is made to enforce the licensing ordinance. A license tax of this nature may be classed with those frequently intricate ordinances taxing peddlers, hawkers and auctioneers. In Urbana an ordinance of this kind by a complicated classification of the goods sold, method of transporting them and the length of time the permission is to continue, invites non-enforcement by its complexity.

Table 7 is a compilation of the principal licenses and the rates imposed in the twenty-four cities under consideration. The field is very wide; yet from the point of view of revenue only a few occupations furnish any considerable income. The most important sources are baggage and express wagons, billiard and pool halls, druggists, pawnbrokers, junk and second hand stores, and theatres of all types. These industries have been long subject to license taxation, and a review of the city reports shows that licenses of this kind form the backbone of the license income. The businesses are permanent; the burden of the tax can be shifted in most cases only upon the well-to-do; and, what is more important, the taxes are easily collectable. The remainder of the occupations subject to licensing are of less permanent character, or of such a nature that a heavy license would be oppressive. Under such conditions license taxation is most successful if concentrated on a few occupations where the returns will be productive, rather than scattered over a variety of trades at low rates.

TABLE 7. PRINCIPAL LICENSES AND RATES,<sup>1</sup> 1909.

	Auctioneers	Auctions	Baggage and Express	Billiards <sup>4</sup>	Bill Posters	Bowling Alleys	Brewers	Brewery Agent	Cigarettes	Dance Permit	Druggists	Dogs	Ferry Boats	Hacks	Hawkers	House Movers	Itinerant Merchants	Merry-go-Rounds	Milk Wagons
Alton .....	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Aurora .....	n	15 <sup>d</sup>	x	5	25	100	x	x	250	n	25	2			50 <sup>y</sup>	10	n	3 <sup>d</sup>	15
Belleville ...			x	15	100	25 <sup>3</sup>	x				n	n			125	10	x	5	5
Bloomingt'n ..	50		4-12	15	15	100	n		200	5	10	3			x	n	x	10	10
Champaign ..	10		7-50	10	15	15	n				10 <sup>8</sup>	n			25	n	x	2.50	2.50
Danville ....	25		1	2 1/2-5	50	5-10	200	200				n		5	35	10	25 <sup>m</sup>	n	
Decatur .....	75		5	5	10 <sup>3</sup>	10 <sup>3</sup>						n			x	50	75 <sup>m</sup>		
E. St. Louis ..	50		25 <sup>3</sup>	10	25	15	x	x			25	1-2	100	2 1/2-5	50	25	n	15 <sup>w</sup>	5
Elgin .....	25	25	2 1/2-5	15	20 <sup>5</sup>	200 <sup>3</sup>	n	100	100	5	25	1-2		5	25	10	n	n	5
Evanston ....	15	10 <sup>2</sup>	x	200 <sup>3</sup>	n	5-10	n				1	1	1	5	n	n	n	n	1
Freeport ....			n	5-10	25	25					15	1-2		12	50		20 <sup>w</sup>	n	n
Galesburg ....	10		5	15-25		n													
Jacksonville ..	n		n	20	40	10	n			50	10	2			n	25	75 <sup>m</sup>	5	5
Joliet .....	10		n	100 <sup>3</sup>	25	10	n					1			50	25	n	10	10
LaSalle .....			5	n	25	n	n							10	25	50	50	5	5
Moline .....	50		10	15	50	n	n		100	25	5	1			3	25	n	5	5
Ottawa .....	50		n	n	3	n	n		100	25	10	1		3	150	25	n	5 <sup>10</sup>	5
Peoria .....	10		2-3	100 <sup>3</sup>	40	10	n	n	100	25	10	2		1	n	25	n	n	5
Quincy .....	n	n	x	5	n	10 <sup>3</sup>	x	x	n	n	25	1 <sup>8</sup>	n	1	n	n	100 <sup>m</sup>	n	1
Rockford ....	25		2	30-10 <sup>a</sup>	20	25 <sup>3</sup>	25	x	f		5	1-2	100	20 <sup>3</sup>	1-3 <sup>d</sup>	5	10 <sup>d</sup>	1	1
Rock Island ..	100		5	10	50	10	25	x		25	5	1-2			50	25	20 <sup>w</sup>	5 <sup>10</sup>	5
Springfield ..	100		5	5	100	10	100	100	f	25	25 <sup>1</sup>	1			35 <sup>m</sup>	n	20 <sup>w</sup>	5	5
Streator ....	n		5	10	n	300	x	x				1-2			n	25	n	1 <sup>d</sup>	5
Urbana .....	20		7.50	5	10	10						1-2			35 <sup>m</sup>	n	2-10 <sup>w</sup>	1 <sup>d</sup>	5

Footnotes, see p. 38.

TABLE 7.—Continued. PRINCIPAL LICENSES AND RATES,<sup>1</sup> 1909.

	Museums	Pawnbroker	Peddlers (wagon)	Peddlers (cart)	Peddlers (foot)	Pool	Runners	Scales	Second hand stores	Shooting galleries	Stands	Stores of Oil	Skating rink	Theatres (1st class)	Theatres (moving pic.)	Wholesale Liquor	Circuses (1st class)	Junk Dealers	Scavenger
Alton .....	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Aurora .....	n	200	50	5m	5m	5	n	n	n	25	n			25	25		25	10	
Belleville .....		100	150	50m	50m	15								100	50 <sup>a</sup>	50	100	50	
Bloomington .....		100	5d	3d	2d	15			50					50	50		50	50	
Champaign .....		5	25m	3m	3m	15	n	n	5	25	n	n	n	150	75-100	n	40 <sup>d</sup>	5	
Danville .....	5 <sup>d</sup>	150	35	20	20	2 1/2-5		10		50	5 <sup>w</sup>		50	125	75		50	5	
Decatur .....		100	50	25	25	10	5	25	x	10		25		150	150	200	100	10	
E. St. Louis .....		50	n	n	n	15			10	25				60	n	n	100	10	
Elgin .....		50	25	25	25	200 <sup>s</sup>	n	n	n	30				100	25	150	150 <sup>10</sup>	5	
Evanston .....	n	n	n	n	n	10-5 <sup>a</sup>					n			100	n	n	20	10	
Freeport .....		100	50	n	n	25-15 <sup>a</sup>	n	n	1	30			75	150	100	n	125	10	
Galesburg .....			n	n	n	20	n			n				100	25		50	5	
Jacksonville .....		50	50m	n	n	100 <sup>a</sup>	3	10	n	n	3		10	120	120		50-100	10	5
Joliet .....		50	25	5d	2d	15								50	25	n	25	2	
LaSalle .....		50	50	50	2d	2d	n	1	2	n	50 <sup>10</sup>		10	25	25	n	n	5	
Moline .....		n	3d	2d	2d	n	3	n	25	10	3			50	50	n	n	5	
Ottawa .....	n	50	25	n	n	100 <sup>a</sup>			n	n	2 <sup>d</sup>	n		100	50	25	75 <sup>14</sup>	25	5
Peoria .....	n	50	12 1/2m	n	1.50d	5	3	n	n	n	3			50	50	n	n	5	
Quincy .....	13m	50	1w	1d	1d	30-10 <sup>a</sup>	12	n	n	n				50	50	25	100	n	
Rockford .....		50	3d	3d	3d	10		n	n	30				50	50	n	50	n	
Rock Island .....	1d	100	3 1/2m	3.50m	3.50m	5	10	50	50	36	50		50	100	25	100	100	30	
Springfield .....			n	n	n	10		10	n					50	50	300	n	n	
Stratford .....		50	8m	6m	6m	5	n	5	n	20			5m	75	25		n	n	
Urbana .....																			

Footnotes, see p. 38.



Whether a heavy license should be imposed upon the baggage and express business is questionable. The industry makes special use of the city streets, for which payment may be expected; at the same time it serves as a refuge for a class of broken down men who frequently earn only a bare livelihood.

A heavy license tax on billiard and pool tables and upon bowling alleys is a profitable source of revenue. A number of cities charge only \$5 per table, while in Danville the tax falls as low as \$2.50 per table, the annual income being only a trifle over \$300. Evanston, Joliet and Peoria charge large sums for the privilege of conducting these businesses, a practice, which, while it gives a monopoly to a few places, makes collection easy. Only a quarter of the cities charge more than \$5.00 per table which sum with a view to revenue is too small.

On bowling alleys the prevailing licenses are \$10 and \$15 per alley, altho in Freeport the charge is as low as \$5 per year. Where a charge is made for the business rather than by the alley, the rates are much lower. In Evanston such charge is \$200, but the next highest rate is \$25, which prevails in three cities. In two other municipalities the business rate falls as low as \$10.

The druggist license is usually a small fee for permission to sell liquor, presumably for medicinal purposes, altho this restriction is notoriously violated. The predominating license rates are \$15 and \$25 dollars per year. In two instances, however, it is \$5.00 and in one case only one dollar. In Bloomington there is an occupational tax of

#### FOOTNOTES TO TABLE 7.

- f—Sale forbidden, but ordinance not enforced.
- n—no data.
- x—taxed under other classification.
- a—larger sum for first table, smaller for each add.
- y—year.
- d—day.
- w—week.
- m—month.
- <sup>1</sup>A blank means not taxed.
- <sup>2</sup>By other than auctioneer.
- <sup>3</sup>Total business.
- <sup>4</sup>Per table unless otherwise designated.

- <sup>5</sup>Circus bill posters \$5.00 per day.
- <sup>6</sup>not now enforced.
- <sup>7</sup>Fee only.
- <sup>8</sup>Occupational tax on all pharmacists.
- <sup>9</sup>Not enforced.
- <sup>10</sup>Any place where milk is sold.
- <sup>11</sup>\$2.50 per 100 scale tickets, which sell for \$10.
- <sup>12</sup>Per wagon.
- <sup>13</sup>An initial franchise tax.
- <sup>14</sup>Grade one.
- <sup>15</sup>On city property.
- <sup>16</sup>\$10.00 per wagon additional.

\$10.00 per year upon all pharmacists. On the whole the drug license is widely used and generally collected, but is not as large as the nature of the drug business justifies.

Pawn shops, junk and second hand stores form a class by themselves, the licensing of which is largely a police measure. Pawn shops require an amount of police supervision and the rate of taxation is necessarily high in order to limit the number. Junk shops are licensed with a view to police regulation, but the object would perhaps be better secured by extending the licensing to the wagons used in collection rather than upon the warehouses, and there would result an increase of revenue.

Theatres are perhaps the most unevenly taxed business of the group,—the license rate in cities of the same size ranging from \$25 to \$150. The predominant rate is from \$50 to \$100, altho six cities charge more than this latter figure. The moving picture show is highly taxed in most localities, the business being supposedly profitable and requiring increased fire protection.

Brewers, brewery agents and wholesale liquor dealers are not as extensively or as heavily levied upon as the nature of their business would seem to justify. Since retail liquor dealers are taxed from \$500 to \$1200, it appears but reasonable that wholesale dealers should contribute more than \$25, as is the case in Rock Island and Quincy. Also if a business is of such a nature that it is taxed \$300 per year in one city, it is questionable if it should be exempt from taxation in others.

Itinerant merchants, licensed, in some cities, from \$25 to \$100 per month, are in other cities escaping with less than a reasonable charge. It cannot be said that their presence promotes a healthy growth of home industries; or is entirely lacking in the need of police supervision; nor are they subject to the general property tax. Perhaps in this instance a much higher license than that which the municipalities are assessing would be expedient upon the grounds both of revenue and of public policy.

Milk wagons in all but seven of the cities pay a nom-

inal fee to facilitate inspection. In two instances, Peoria and Rock Island, the licenses apply to all places where milk is sold. The usual rate is \$5 per year, tho it is as high as \$15 in Alton, and falls to \$1 in Freeport and Rockford. The total revenue is not large, but should be sufficient to cover the costs of inspections and testing.

The high cigarette license tax is normally imposed with a view to decreasing the sales. It usually results in giving a single merchant a cigarette monopoly, as was originally true in Rockford; or for several dealers to take out licenses at a loss,—in which case the tax is really one upon the retail tobacco business. Or a large tax may prevent any dealer taking a license, in which case the ordinance is widely violated. This situation was found in both Ottawa and Rockford. A more reasonable license than that now imposed in the five cities licensing the sale of cigarettes,—possibly \$50 per year,—would prevent the indiscriminate sale by small dealers and grocers, and would materially reduce or eliminate evasions of the law by tobacco dealers. The result would be a \$50 tax on the retail tobacco business, tho it would have the appearance of an optional payment.

In addition to the licenses enumerated in table 7 there are numerous others which are operative in only a few cities. A complete list would include striking machines at \$1 and \$10 a day in Aurora and Urbana respectively; ice cream wagons, \$5 in Belleville; street cars in several cities;<sup>20</sup> solicitors for merchants, at \$50 in East St. Louis; mechanical clocks at \$2.50 in Aurora; distilled water dealers, \$5 in Evanston; awning manufacturers, \$25 in Joliet and Peoria, or at \$10 when more than one person shall be engaged in the business; keepers of gunpowder, \$3 in Galesburg; and the penny arcades in several municipalities, either by specific designation or under the classification of general amusements.

Cities are also permitted to examine and license plumbers, the fee being \$50 for master plumbers, and \$1

<sup>20</sup>See Public Service Privileges, ch. IV.

for journeymen; and to renew the same annually for \$10 and \$2 respectively.<sup>21</sup> In Rockford examination and renewals returned \$481, or \$449 net, which "as has always been the custom was divided equally among the three members of the board".<sup>22</sup> Electricians pay an annual license of \$5 in Peoria, the total income from this tax being \$501. Aside from these mentioned, and single instances of a tax on bakers and pharmacists, occupational licensing has made little progress in the cities of Illinois.

The business of plumbing pays \$10 license in Decatur, Ottawa, LaSalle, Bloomington, and \$20 in Moline. Drain layers are licensed at \$10 in Rockford and Peoria.

### *Business Taxes.*

It is not always easy to distinguish between the objects of business taxation and general licensing tho it is desirable to discuss them separately. Certain trades, as druggists, pawnbrokers, second hand dealers, junk shops, etc., have been long subject to licensing and by nature seem to invite public supervision. On the other hand, other businesses have no special characteristics which justify licensing and taxation unless such taxes are imposed on all. Licensing within this group is justified only by the requirement of revenue, and the desirability of an easily assessed and collected tax.

The statutes are sufficiently broad to permit the licensing of almost any business which the city authorities may think necessary,<sup>23</sup> yet the practice of business taxation has been extended in only a limited radius from East St. Louis. This city apparently borrowed the practice from its Missouri namesake. Table 8 is an exhibit of the rates of business taxes and the total amounts received by each city from this source for the year 1909. East St. Louis, Springfield, Belleville, and Alton are the only municipalities receiving a considerable revenue from this source,

<sup>21</sup>Laws of 1909, p. 132.

<sup>22</sup>Annual Report of Rockford, 1909, p. 88.

<sup>23</sup>Rev. Stat. ch. 24, par. 62, item 95 *et seq.*



although several other cities license an occasional trade. The most productive license is that on butcher shops, which in Alton paid \$1988 during 1909. In the same city, livery stables and lumber yards contributed \$125 for each class, and restaurants \$282.

In Belleville the most important of the business taxes was that upon vendors of provisions, the return being \$720. Vendors of bread, fruit, etc., paid \$355; real estate brokers paid \$337; and livery stables, \$100. In East St. Louis

TABLE 8.  
BUSINESS TAXES, RATES AND TOTAL INCOME, 1909.

	Alton	Belleville	E. St. Louis	Evanston	Joliet	Peoria	Rock Island	Springfield
Awning man'f'g. ....					\$ 25	\$ 25		
Bakeries .....		\$ 10	\$ 25			5 <sup>1</sup>		
Brokers, general ....		25	200					\$ 25
Brokers, real estate..		25	25					25
Coal dealers .....			25					10
Fire works, retail....								3
Fire works, wholesale								15
Groceries .....		10	25					
Hay and grain.....			25					
Ice dealers .....			25	\$5 <sup>2</sup>	10 <sup>2</sup>	10 <sup>2-5</sup>		10
Hotels .....								15
Livery stables .....	\$ 25	25	50	2.50 <sup>3</sup>				25
Lumber yards .....	\$ 25		50	25				50
Meats, retail .....	100	10	50 <sup>4</sup>				5	25
Meats, wholesale ....								100
Restaurants .....	10		15	2				15
Storegoods .....		10	25					
Undertakers .....					10			10
Total income .....	\$2520	\$2368	\$14611	No Data	\$ 185	\$ 176	\$ 135	\$3757

<sup>1</sup>Per person.

<sup>2</sup>Per wagon.

<sup>3</sup>Per rig.

<sup>4</sup>Now \$25.

<sup>5</sup>Not enforced.

butcher shops paid \$5100; grocery stores, \$4408; "vendors of store goods", \$1387; coal and ice dealers, \$895; real estate brokers, \$719; and hay and grain dealers, \$268. The remaining business licenses in the city produce less than \$250 each. Meat dealers are the most important contributors to the business tax fund in Springfield, retail dealers paying \$1417, and wholesale dealers \$908. Lumber yards are next in rank, contributing \$305; restaurants pay \$250; lunch rooms, \$248; and real estate brokers, \$168. The remaining businesses pay less than \$100 each.

The other cities enumerated in Table 8 cannot be said to practice business licensing for revenue purposes. In Evanston only lumber yards are taxed sufficiently to produce a reasonable revenue, the other business taxes appearing to be of a regulatory nature. The license of awning manufacturers in Joliet and Peoria is unimportant, and the tax on ice wagons is apparently regulatory.

In this connection attention may be called to the \$2 tax on restaurants in Evanston; and a similar license proposed in Urbana. Both of these cities forbid the licensing of saloons and consequently have found it necessary to extend police supervision to restaurants to prevent the illicit sale of liquor.

The four cities which have extensively adopted business taxation find it a profitable source of revenue. Its general introduction, however, would probably meet with such opposition as to make wide adoption impossible.

#### *Vehicle Licenses.*

A recent amendment to the general incorporation act for cities provides that municipalities may "direct, license and control all wagons and other vehicles conveying loads within the city, or any particular class of such wagons and other vehicles, and prescribe the width of tires of the same, the license fee when collected to be kept in a separate fund and used only for paying the costs and expense of street and alley repair".<sup>24</sup>

<sup>24</sup>*Rev. Stat.* (1908), ch. 24, par. 62, item 96.

Eight out of the twenty-four cities under discussion have placed upon vehicle owners part of the cost of repairing streets which are built entirely by the property owners. Ordinances establishing vehicle licenses meet with considerable opposition and have been considered unfavorably in at least three cities, Decatur, Rockford and Springfield.

TABLE 9.

## VEHICLE LICENSES, RATES AND TOTAL INCOME, 1909.

	One horse	Two horses	Three horses	Four horses	More than four horses	Automobiles, small	Automobiles, double	Auto-trucks	Motor-cycles	Income
Alton . . . .	\$2	\$ 2-5	\$5	\$ 5	\$ 5	\$10	\$ 10	\$ 10	\$ 1	\$ 516
Aurora . . . .										
Belleville ..	5	5	5	5	5	5	5	5		483
Decatur ....						5	5	5		
E. St. Louis <sup>6</sup>	7.50	10	12.50	15						7169
Evanston ..	3	5	10	15	20	12 <sup>1</sup>	20	30	3	8065
Jacks'nville	2-3 <sup>2</sup>	4-10	10	10	10	10	10	10		2368
Moline <sup>5</sup> ....	1	2 <sup>3</sup>	3	4		5	10	15	2	800 <sup>6</sup>
Quincy ....	1	2				7.50	10-15 <sup>4</sup>		2	3401

<sup>1</sup>Driver also licensed.

<sup>2</sup>Based upon number of horses and weight of wagon.

<sup>3</sup>Delivery wagons, \$7.50.

<sup>4</sup>Six or more passengers.

<sup>5</sup>1911.

<sup>6</sup>Furniture, baggage, and express wagons, \$25.

The ordinances which have been passed indicate no uniformity as to what is regarded as a reasonable tax on vehicles. The minimum is in Moline where the charges are \$1 per horse, with a uniform charge of \$7.50 for delivery wagons. In East St. Louis the minimum charge is \$7.50 for one horse vehicles with an increase of \$2.50 for each additional horse. In Jacksonville the tax is based upon a combination of the number of horses and weight of the vehicle. The intention was to charge light delivery wagons \$4, and the maximum weight of vehicles at \$3 a year was placed at

750 pounds. The result was to place most delivery wagons in the three dollar class. Perhaps such a scheme of graduating the tax by the weight of the vehicle is commendable if proportionate depreciation on pavements is to be considered, but it lacks much in simplicity of collection.

It has been impossible to separate the revenue returns from the licensing of automobiles from that of other vehicles, tho doubtless the former contribute the larger share. It is conceded that automobiles cause a considerable destruction of streets and they have been taxed accordingly. The minimum charge is \$5 per car, and the tendency is to increase the rate to ten dollars for other than runabouts, and one city adds the class of six-passenger cars. The result of the high charges in Evanston is seen in the large amount of revenue derived from the vehicle tax. Perhaps \$20 per car would be considered large in the average city, but it should be remembered that the ownership of an automobile is, or should be, indicative of an ability to bear taxation. In addition to the charge on machines, Evanston examines and licenses automobile drivers, the examination being made by the commissioner of public works. The initial charge is \$3, the license being renewable annually for \$1.

The motorcycle license has been adopted by four cities and is more of a police than a revenue measure, justified by the large increase in the number of machines and the public danger arising from their use.

#### FOREIGN FIRE INSURANCE TAX.

Fire insurance companies which are not incorporated under the laws of the state of Illinois are required to pay into the treasuries of the municipalities in which they operate, not to exceed two percent of the gross receipts from insurance in force within the city limits. The disposal of this fund has already been mentioned, and comment concerning it will be confined to the manner of collection.



Table 10 is a statement of the income of each city from this source. In this instance, where one would anticipate almost uniformity in the percapita collections, there is a large variation in the income, the lowest being \$.017 per person in East St. Louis, and the highest \$.11 or six times that amount, in Peoria.

TABLE 10.

TOTAL AND PER CAPITA INCOME FROM THE FOREIGN FIRE INSURANCE TAX, 1909.

City	Total Amt.	Per Cap.	City	Total Amt.	Per Cap.
Alton .....	\$1488	\$.085	Jacksonville ...	\$1348	\$.088
Aurora .....	1636	.055	Joliet .....	1984	.057
Belleville .....	662	.025	LaSalle .....	739	.064
Bloomington ..	1093	.041	Moline .....	1415	.58
Champaign ....	1124	.09	Ottawa .....	912	.095
Danville .....	1672	.06	Peoria .....	7369	.11
Decatur .....	3102	.10	Quincy <sup>1</sup> .....		
E. St. Louis ...	1200	.017	Rockford .....	2248	.049
Elgin .....	1121	.043	Rock Island ...	1838	.074
Evanston .....	1472	.059	Springfield ....	1729	.034
Freeport .....	1061	.06	Streator .....	1159	.081
Galesburg .....	1579	.069	Urbana .....	327	.04

<sup>1</sup>Annual reports for 1907 and 1909 make no mention of this tax. May be included in "general licenses".

In some instances, as in East St. Louis, city officials frankly admitted that the collection of the tax had not been pressed. By special action of the city council in Ottawa in 1909 suit was commenced in the justice court against fifty-six delinquent companies, resulting in a payment of \$863. Rockford, to facilitate the collection of this tax, requires that each insurance broker take out an annual license, the charge being \$1. At the time of issuing this license, an affidavit may be required of the foreign insurance business which the firm has written during the past year.

From the figures it appears that the normal collection in each city should fall between four and eight cents per person, and nearer the latter figure than the former. Yet

five cities fall below the minimum figure suggested and seventeen below the maximum. The insurance tax will furnish one of the largest incidental revenues to which the cities have access, if means are found to compel its payment.

#### POLICE FINES.

The police and local courts are not important for their contribution to city revenues since the maximum in any city amounts to only 4.12% of the whole, while the average is about 1%. (See Table 31). In Freeport the contribution of the police department is 4.72% of the whole city income, while in Moline it falls to .236%. It is rather for its wide variation of return that this branch of the municipal revenue deserves attention. The public safety is the one department of city activity where administration is fashioned after that of a quarter of a century ago and is still beset with fees, charges, perquisites, and not infrequently ignorance.

A prisoner from the moment of his arrest is in the grasp of a system of charges,—a fee for the officer who makes the detention, a fee for the prosecuting attorney, costs for the judge and jury, and a fine for the city. And the more important of these charges are dependent upon the option of those whose function it is to assess them. In one municipality a city warrant cannot be secured after nine o'clock in the morning, if the case is one in which either a state or city warrant may be issued. A city warrant would give the fine to the city; a state warrant gives nothing to the city and permits a larger fee to the magistrate. If there have been a series of state cases where no cash fines have accrued, these will be made up by means of a heavy fine assessed against the next offender who can pay.<sup>25</sup> The minimum charge assessed in a city case would

<sup>25</sup>State cases may suffer by the State's attorney receiving fines in the cases he prosecutes. For example the statutes provide that game wardens shall receive one-half of the fines in cases apprehended by them. One State's attorney refused to sanction such a loss to his income with the result that game law enforcement was at a stand still.

be a \$1.00 fine, plus \$1.80 costs. In a state case this would be \$3.05 plus in many cases a minimum attorney's fee of \$5.00. In simpler words, in one city of the state the penalty of a crime may be magnified four times if the arrest is made after nine o'clock in the morning. Under such a system the possibilities of connivance between the magistrate and the prosecuting attorney is apparent.

In Quincy, state cases amount to only 7.5% of those tried; in Rockford they are 20%; Bloomington 27%; Rock Island 37.5% and Moline 45%. It is impossible to believe that serious crime is six times more prevalent in this latter city than in Quincy. In one municipality the chief of police in his attempt to obtain equity for the city by having as many prisoners as possible fined in the municipal court, brought upon himself the wrath of the politicians in such a measure that he gave up the task. To quote his own words, "I had to come off second best". There are at least several solutions for this problem, the most practical being to place the prosecuting attorney upon a salary basis.<sup>26</sup> Tho the fines under this system are still lost to the city, the surplus over the salary will be turned in to the county school fund. In Rock Island, in 1908, over \$2,000 was secured for education in this fashion. Another remedy involves the more difficult task of taking the police out of politics.

Justices of the peace have long been notorious as dispensers of justice of a sort which in Chicago brought upon them the approbrium of "justice shops". These officers in that city have now been abolished in favor of the municipal court. The evils of political justices need no recital, yet one city, East St. Louis, with over ten thousand arrests per year, retains the system. Each morning the culprits of the last twenty-four hours are religiously divided among the city magistrate and a half a dozen justices of the peace. In other cities the city cases tried before the justices of the peace are almost none,—15 of 1019 in Quincy, 1 of 1507 in Rockford.

<sup>26</sup>*Rev. Stat.* Ch. 53, par. 8a.

A reference to Table 31 in the chapter on Conclusions will show the proportion of each city's revenues which is contributed by the police department. This, however, is scarcely a just method of comparison, since the importance of smaller sums is lost in the larger ones arising from other sources. Also, both the opportunities for, and the policy of, arresting is different in each locality. In "dry" communities persons intoxicated are usually apprehended on sight, while in others, not until they become decidedly offensive.

That the number of saloons directly influences the number of arrests, and hence the police income, is shown both by the size of the police forces and the population per arrest in the different cities. In the five no-license cities the average number of persons per police officer is 1566; for the remaining cities there is an average population of 1168 for each officer. Table 13 also indicates that there is some correlation between the population per saloon and the population per police officer. This relation holds true in all but a few instances.

While the presence or absence of saloons affects decidedly the number of men required to maintain order, and may increase the number of arrests in an individual city, on the whole the influence of the liquor traffic is not as marked as might be expected, for the reasons already stated. In cities having one annual arrest to twenty or more inhabitants, there is a saloon for an average of 413 persons; while in cities making one arrest for less than twenty inhabitants, there is a saloon for each 350 persons. While the former group contains five no-license cities, it also includes LaSalle, which has the largest pro rata of saloons of any city studied. Frequency of arrest is hardly a mark of good order in a city, or a criterion of an efficient police force. A large income from police sources may indicate that undesirable and unlawful businesses are allowed to play their trades thru the payment of fines as tribute.

Perhaps a more satisfactory method of judging police revenue would be a comparison of the income per arrest



in the several cities. This sum ranges from nothing in Joliet and twelve cents in East St. Louis, to \$5.51 in Freeport. The method of collection in East St. Louis has been commented upon, and furnishes some explanation for so small a return. On the other hand, Alton, Aurora and Jacksonville must be excluded for purposes of actual comparison since their magistrates are recompensed by salaries rather than by fees.

Aside from the factors of number of arrests, and payment of police judges, there remain two others which influence municipal incomes from police departments,—the disposition of the cases presented to the magistrates and of the fees and fines assessed. Owing to the meagerness of city reports and the lack of accessible records in the police departments there is a limited amount of information upon both of these subjects. It has been impossible to obtain even the number of arrests in LaSalle and Springfield, and in this latter city the desk sergeant professed complete ignorance of the number of merchant's police, with whom his department presumably co-operates.

The disposal of persons arrested as reported in five cities may be sufficient to show the general tendency and is as follows:

TABLE 11.

## DISPOSAL OF ARRESTS IN FIVE ILLINOIS CITIES, 1909.

	Evanston.	Ottawa.	Peoria.	Quincy.	Rockford.
Total No. arrests.....	734	425	4383	1019	1507
Fines paid in court.....	410	64	1218	399	338
Cases continued .....	8	9	1218	9	135
Held to other courts or grand jury .....	28	11	277	92	106
Settled out of court.....	22		40	3	155
Discharged on payment of costs .....	79			25	
Served in jail .....	22	66	531	173	266
Discharged .....	158	273	2103	145	542
Otherwise disposed of....	7	2	109	173	5

Expressed in relation to the total number of arrests this table becomes:

TABLE 12.

## DISPOSAL OF ARRESTS IN ILLINOIS CITIES, BY PERCENTAGES.

	Evanston.	Ottawa.	Peoria.	Quincy.	Rockford.
City Income per arrest.....	\$4.84	\$1.40	\$1.36	\$4.03	\$ .82
Total no. of arrests.....	100%	100%	100%	100%	100%
Fines paid in court.....	55.	15.	27.8	39.2	22.2
Cases continued .....	.09	2.1	.018	.884	8.95
Held to other courts or grand jury .....	3.87	2.6	6.34	9.1	6.7
Settled out of court.....	3.8	...	.92	.294	10.25
Discharged on payment of costs .....	10.8	...	...	2.45	...
Served in jail.....	3.8	15.5	12.1	17.	17.2
Discharged .....	21.	64.4	48.	14.2	35.8
Otherwise disposed of.....	.955	.02	2.5	17.	.035

In Evanston and Quincy the income per arrest is affected in one instance by the presence of a salaried judge and in the other by heavy automobile speeding fines; but from the remaining cases it appears that there is no causal relation between the disposal of cases and income. Ottawa, which fines only 15% of those arrested receives a per arrest income of \$1.40, while Peoria with almost double the percentage of fines receives a few cents less.

The most striking feature of the table is the small percentage of the cases which yield a return to the municipalities. On an average less than one-third of the arrests are fined in court, while considerably more than this are discharged, dismissed, have fines suspended, or are disposed of in a fashion which would indicate that the charges are not serious or are unsubstantiated. Yet another third remains within the grasp of the law, but the prosecution does not bring an income to the city.

Concerning the relation of costs to fines imposed, only five cities report other than the final amount turned into the city treasury. No two of these municipalities report in a fashion sufficiently similar that their reports may be tabulated.

In Aurora the total amount of fines and costs assessed was \$3,732.70 for the year 1909. Of this sum, \$288 or 6%

was paid out as witness fees; \$1251 or 33% was accounted for by labor, confinement, suspension of fines, etc., leaving \$2273.30 or 61% to be paid to the city attorney. Reports of both clerk and treasurer, however, show that only \$1976.45 was received by the city during the year, or 53% of the amount assessed. Against this the city appropriated \$1124.50 to the police magistrate and \$1250 as salary to the judge of the city court, which sums are about \$400 in excess of the income from police sources.

The amount of fines assessed in Bloomington, for the year 1909 was \$7214.20, of which \$3538.50 or 49% was fines, \$2766.70 or 38% was magistrates' costs, and \$913 or 13% was police costs. Of the total amount assessed, \$2805.83 or 39% was not collected or was offset by confinement; \$2762.70 or 38% went to the magistrate as fees, leaving \$1645.67 or 23% to the city treasury.

The Rockford report is for a period of six months only, and shows \$3907.30 assessed, of which \$2859.50 or 73% was as fines and \$1047.80 or 27% was as costs. This may be compared with 49% and 51% for these respective items in Bloomington. Of the total amount assessed in Rockford, \$2713.85 or 69.5% went uncollected; \$410.40 or 10.5% was collected as costs, while the share of the city was \$783.05 or 20%.

The total amount of fines and costs in Peoria for the year 1909 was \$19,545.40, of which \$10,933 or 57% was accounted for by imprisonment, appeals, outstanding or suspended fines. The magistrate collected \$8612.40 of which he turned \$5052.10 or 26% of the total amount imposed into the city treasury. In Streator \$2,580.94 was imposed as fines, of which \$1258.46 or 48% was served, worked out, or dismissed; while \$1280.94, or 52% was collected.

It is of interest to note, that with the exception of the last named city and Aurora, the share of the municipalities in the amount imposed did not have a variation of more than 6% of the total, being 20% in Rockford, 23% in Bloomington and 26% in Peoria. Yet the sum which

was uncollected was extremely variable, 33% in Aurora, 39% in Bloomington, 48% in Streator, 57% in Peoria, and 70% in Rockford.

Thus to the causes already given for the smallness of city returns from fines, may be added those of laxity in fining and in the collection of fines by magistrates; in some cases the rather large stipends which go to the magistrates in the form of fees; and finally the large amount of arrests which fail to come within the jurisdiction of the city courts. While the police are for protection and not for revenue, at the same time cities are entitled to intelligent annual reports from chiefs of police and magistrates which will show the disposal of cases, and the amount of fines and costs, assessed and collected.



TABLE 13.

STATISTICS ON STRENGTH OF POLICE FORCE, NUMBER OF ARRESTS, ETC., 1909.

	Amount to Treasury	Number of Arrests	Number on Police Force	City Income per Arrest	No. of Arrests per Officer	Population per Arrest	Population per Officer	% of Force re- quired by law
Alton .....	\$ 1657	350	17	\$4.73	20	50	1030	100
Aurora .....	1976	849	22	2.32	38	34	1355	76
Belleville .....	560	438	15	1.05	29	59	1405	71
Bloomington .....	1,702	1351	36	1.26	37	19	715	144
Champaign .....	no data	no data	8				1550	66 <sup>a</sup>
Danville .....	7,041	3655	45	1.92	81	7	6.19	166
Decatur .....	5,391	2601	27	2.07	96	12	1160	87
E. St. Louis .....	1,219	10,000	75	.12	133	7	780	128
Elgin .....	683	642	19	1.06	33	40	1365	73
Evanston .....	3,293 <sup>1</sup>	734	29	4.48	25	25	860	116 <sup>a</sup>
Freeport .....	4,433	804	12	5.51	67	22	1465	70
Galesburg .....	3,102	837	12	3.70	69	27	1840	55 <sup>a</sup>
Jacksonville .....	1,836	431	8	4.26	54	35	1910	53 <sup>a</sup>
Joliet .....	None <sup>2</sup>	1836	39	None	47	19	895	115
LaSalle .....	432 <sup>4</sup>	300 <sup>5</sup>	9	1.40 <sup>6</sup>	30 <sup>6</sup>	33 <sup>6</sup>	1280	122
Moline .....	416	922	19	.45 <sup>7</sup>	48	26	1273	79
Ottawa .....	495	425	5	1.40	85	26	1907	45
Peoria .....	5,983	4383	95	1.36	46	15	703	144
Quincy .....	4,106 <sup>3</sup>	1019	34	4.02	30	35	1073	94
Rockford .....	1,249	1515	36	.82	42	29	1260	80
Rock Island .....	3,364	1059	20	3.18	52	24	1216	77
Springfield .....	5,890	<sup>4</sup>	56				920	110
Streator .....	941	296	13	3.18	22	53	1100	93
Urbana .....	328	163	4	2.01	40	50	2061	50 <sup>8</sup>

<sup>1</sup>\$1832 of this is auto fines. Average return from these \$22.58.<sup>2</sup>So stated by the Clerk in answer to direct question. No such item in report of clerk or treasurer. No explanation offered.<sup>3</sup>Salary to Judge.<sup>4</sup>See Text, p. 50.<sup>5</sup>Estimated from trial cases.<sup>6</sup>Estimated.<sup>7</sup>Salary limited to \$600.<sup>8</sup>No license.

## CHAPTER III

### GIFTS, GRANTS AND SUBVENTIONS.

#### SCHOOL REVENUES.

The most important item of revenue within the group of gifts, grants and subventions is the state grants to schools. For purposes of convenience the data in relation to school revenues will be considered together. Table 14 is an exhibit of the sums received by the school district or districts in which the cities named are located. The cities and the school districts are seldom exactly coextensive; but the consequent lack of correspondence in the statistics is neither large nor important.

#### *State Grants.*

Each county is paid its proportionate share of the state school tax, upon the basis of inhabitants under twenty-one years of age. To this is added a share of the income from the sale of public lands within the state, plus a portion of the interest on the surplus of national revenue distributed to the states in 1837. Warrants for the share of each county in this fund are issued to the county superintendents of schools who present them to the county treasurers for payment. These warrants are turned over to the state and apply as cash on the county share of the state school taxes. The county superintendents distribute the funds to the superintendents of the school districts.

It is quite possible that the amounts returned to the cities are not as large as the sums collected in state taxes for these purposes; but the exact situation could only be shown by a detailed comparison of city and country wealth and population.

TABLE 14.  
REVENUES OF SPECIFIED CITY SCHOOL DISTRICTS.<sup>1</sup>

	State Grant	Tuition	Taxes <sup>2</sup>	Endowment Income	Other Income	Total Income	Amount of Endowment
Alton .....	\$ 3391	\$ 1837	\$ 82,275	\$ 200		\$ 87,503	\$ 4000
Aurora .....	4870	1622	113,198			119,690	
Belleville .....	2277	396	78,740		53	81,467	
Bloomington ....	4406	1037	123,319		1810	130,572	
Champaign .....	923	11	69,346	320		70,600	6400
E. St. Louis ....	6942	763	255,029		506	263,241	
Elgin .....	2872	497	147,852		42	151,263	
Freeport .....	1592	979	86,318		1307	90,133	
Galesburg .....	3135	2010	77,000	200		82,345	no data
Jacksonville ....	2403	1361	82,000			85,764	
Joliet .....	7319	223	197,090			204,132	
Moline .....	2885	584	135,000		202	138,670	
Ottawa .....	1796	44	40,403		95	42,339	
Peoria .....	10,919	608	379,381	6939	2752	400,600	no data
Rockford .....	6118	3243	182,908		541	192,811	
Rock Island .....	3402	973	114,803		1329	129,106	
Springfield .....	7562	1739	275,000		56	284,357	
Urbana .....	1700	890	54,000			56,590	

<sup>1</sup>No data for Danville, Decatur, Evanston, LaSalle, Quincy, and Streator.

<sup>2</sup>Amount extended.

### *Endowment Income.*

Income from endowments are found in only four of the cities considered, and is an inconsiderable sum in all but one of these. Peoria has such an income of nearly \$7000. The source of these endowments are funds distributed by the state to the local districts. Only in exceptional instances are these monies preserved intact, the income to be paid annually to the district entitled to it.

### *Tuition.*

Tuition is in its nature a commercial revenue but is mentioned here since it is desirable to consider school reve-

nues as an entity. The sums received from this source range from almost nothing to over \$3000 per year, in Rockford. Several school districts receive more than \$1000 a year. The returns are naturally influenced by the presence or absence of a township high school, altho the tuition received from the grammar schools is not unimportant.

### *Miscellaneous Income.*

The miscellaneous fund of the school districts needs no comment since it consists of practically the same revenues as does the similar fund in municipal budgets,—rebated insurance premiums, receipts in error, etc. In addition, the school districts receive the fines imposed in the county for violations of other than city ordinances.

### GIFTS BY INDIVIDUALS.

Nearly every city receives occasional donations of money or property of considerable value, usually for some designated purpose. The gifts for libraries and the revenue from library endowments are noted in chapter V. During the fiscal year 1909 several municipalities received gifts for other purposes, or the revenues from gifts of an earlier date. To Evanston was donated property for park purposes valued at \$20,000, and a play ground valued at \$12,000. Prior to this the city had received a park and museum valued at \$40,000. Jacksonville was given \$100 as a special memorial fund; while Aurora received the income on \$6500, to be used towards the establishment of an orphanage.



# CHAPTER IV

## REVENUES FOR SERVICES RENDERED.

### DEPARTMENTAL RECEIPTS.

Table 15 is an exhibit of the collections of the several cities in 1909 from miscellaneous sources. The first columns state the receipts from fees and inspections, tho the returns lack absolute accuracy owing to frequent con-

TABLE 15.

RECEIPTS FROM FEES, INSPECTIONS, DEPARTMENT RECEIPTS, CHARGES AND OTHER MISCELLANEOUS SOURCES, 1909.

	Fees	Inspections	Totals	Charges	Sale of Public Property	Miscellaneous
Alton .....	none	none	none	none	none	232
Aurora .....	none	none	none	4329	none	398
Belleville .....	1037	none	1037	413	none	none
Bloomington .....	1022	1390	2412	2256	476	3169
Champaign .....	117	104	221	none	none	none
Danville .....	363	none	363	none	none	46
Decatur .....	166	1797	1963	853	238	none
E. St. Louis .....	2087	1406	3493	266	none	none
Elgin .....	50	128	178	90	441	87
Evanston .....	2370	1205	3575	7583	inclu'd	2377
Freeport .....	none	none	none	1223	3817	383
Galesburg .....	none	110	110	13	400	602
Jacksonville .....	45	none	45	115	none	2115
Joliet .....	186	1075	1261	338	1397	none
La Salle .....	none	none	none	254	28	none
Moline .....	none	788	788	none	none	none
Ottawa .....	none	343	343	none	none	1324
Peoria .....	2725	1285	4010	3135	174	650
Quincy .....	none	none	none	108	1371	62
Rockford .....	none	1510	1510	389	207	15,172 <sup>2</sup>
Rock Island .....	340	1074	1414	none	none	571
Streator .....	none	none	none	none	114	774
Springfield .....	1544 <sup>1</sup>	478	2022	388	72	no data
Urbana .....	none	none	none	none	none	none

<sup>1</sup>Partially included in licenses.

<sup>2</sup>Services other than for water rendered by water work dept.

fusion with departmental receipts, or inclusion in the miscellaneous fund. The table will, however, indicate the relatively large amounts which may be secured by a systematic collection of fees,—impositions which incur small complaint, yet materially assist in the adequate enforcement of building ordinances, water charges, etc.

Bloomington, East St. Louis, Evanston, Peoria and Springfield derive an income from fees which very nearly equals in amount that secured from general licenses. On the other hand seven cities fail to avail themselves of this means of income.<sup>1</sup>

Of the cities using fees extensively, Evanston may be cited as presenting the most effective system.<sup>2</sup>

<sup>1</sup>Some revenue from this source may be included in "miscellaneous returns" but if so it is of small amount.

<sup>2</sup> Sewer permits .....	\$5.00
Reconstruction and alterations.....	.50
Sidewalk permits .....	
Water permits .....	
One-half inch taps.....	5.00
Five-eighths inch tap.....	6.00
Three-fourths inch tap.....	8.00
One inch taps .....	10.00
Alterations .....	\$1.00 to 4.00
Street permits .....	
Electrical construction permits.....	
New wiring .....	
Electric signs .....	
Line construction .....	
Building permits .....	
Brick residences .....	
Frame residences .....	
Alterations .....	
Commercial buildings .....	
Depots .....	
Sheds and barns.....	
Miscellaneous .....	
House movers permits.....	
One and one-half story frame.....	10.00
Two story frame.....	20.00
Moving in same block.....	2.00
Electrical inspections .....	

There is a tendency to make the stipend of certain offices the amount of fees collected. In such cases, the total amounts collected are seldom included in the financial statements of the cities; and these are to that extent incomplete.

Usually in compliance with an ordinance, the holders of fee offices render an annual report to the city clerk, stating the amount of the collections, and surplus over the amount retained as remuneration. Rarely, however, do these reports comply with the constitutional requirement that they be made semi-annually, and state the amounts received.<sup>3</sup> Table 16 is a partial list of the fee offices in some of the larger cities, indicating the extent to which fees are employed in the payment of officers, and the manner in which reports are made.

TABLE 16.

## FEE OFFICES AND METHOD OF REPORTING.

City.	Office	Income.	Payments.	Salary.
Aurora.....	Boiler Inspector	No report for these officers in the annual report. Statement of inspections but not of cash received.		
	Plumbing Inspector			
	Oil Inspector			
Bloomington...	Oil Inspector	No report for these officers in the annual report of the city.		
	Weigher			
	Poundmaster			
Ottawa.....	Plumbing Board	No report of cash taken in.		
Peoria.....	City Collector	No report published.		
	Oil Inspector	No report published.		
	Boiler Inspector	\$1039	\$103	\$935
	Weights and Measures	No report published.		
	Inspector			
	Exam. Electrician	\$ 501	\$410	\$ 90
	Exam. Elevator	\$ 117      \$ 51      \$ 66		
	Operators			
Quincy.....	Weights and Measures	No report.		
	Inspector			
Joliet.....	City Collector	} Extensive report published but no report of income.		
	Oil Inspector			
Rockford.....	Plumbing Board	\$481	\$ 39	\$449

<sup>3</sup>Const. of 1870: Art. 10, par. 13.

Income from departmental charges and the sale of public property is offset by the cost of the services rendered or by the value of the property disposed of, and does not directly increase the spending power of the city. Among the most important charges made are those for openings in pavements, sale of crushed stone, meters, etc., altering water and sewer pipes, caring for prisoners of other districts; and the sale of junk and obsolete machinery.

Miscellaneous receipts include in some instances fees, charges, and income from the sale of property, or portions of these funds. The major proportion of the receipts, however, consists of the odds and ends of city revenues, refunded insurance premiums, over-charges returned, corrected errors in the pay rolls, etc. None of these funds are open to increase except that which might arise from a more thoro reckoning of accounts receivable.

#### SERVICE PRIVILEGES.

Fourteen of the twenty-four cities here discussed receive remuneration in some measure for public service franchises granted. No municipality taxes all of the franchises in force within it; and in all, only twenty-six franchises out of over one hundred and fifty, or about seventeen percent, yield payments to the grantors. Of this number, five are street railway privileges on which the tax is only from \$5.00 to \$25.00 per car in continuous operation, amounting with one exception to only a few hundred dollars per year. East St. Louis, however, receives \$1600 from this source.

Nine of the franchise payments are based upon a percentage of income, the lowest being one percent of the net city telephone receipts in Quincy, and the highest, five percent of the gross interurban receipts in Belleville. The predominant figure, which prevails in seven cases, is two percent of the gross receipts. In two of these instances it will become four percent after ten years of operation. Similarly, two of the telephone franchises pay on a revenue



basis, that is, one dollar per telephone, which amounts roughly to five per cent of the gross income.

Some of the utility companies pay a fixed sum ranging from \$500 to \$2000 per year. Such payments do not allow for the growth in value of the franchise and probably are not as large as would be realized by a percentage tax. For example, Bloomington (26,000 pop.) receives by a two percent tax upon the gross receipts of the street railway, \$3400; Joliet (35,000 pop.) receives a cash payment of only \$1000. Peoria (67,000 pop.), the largest city of the group, receives a fixed amount of \$500 a year from the telephone company, a sum which is exceeded in all other cases except in one city,—Alton.

Three municipalities, Aurora, Joliet, and Rockford, have recognized the importance of franchises as a source of revenue by each assessing three or more utilities, with a resulting income of over \$3000 to each city. Springfield receives a similar sum as two percent of the street railway receipts. The remaining cities have provided for franchise payments in a desultory fashion. Having no knowledge of what constitutes a reasonable rate and guided by a desire to increase property values and build up the city, the greater part of the franchises have been given away for long terms and almost without payment.

A marked exception to the above statement is Aurora, which in addition to the annual charges noted in table 17 made the following initial charges for franchises granted: street railway \$30,000 plus \$3641 as damages and attorney's fees; gas and electric, \$25,000 to a fund for the erection of a new bridge; and interurban, \$25,000. That public service corporations can afford to pay as large sums as these in addition to a proportion of their annual receipts, for the privilege of operation, is evidence of the reasonableness of any franchise payments noted in the following table:

Under an effective system of legislative regulation, by which the price of a public utility commodity would be such as to pay only the cost of production and a reasonable

TABLE 17.  
RATES, AND INCOME FROM FRANCHISES, 1909.

	Utility	Basis of Payment	Income	Total Income
Alton .....	Telephone ...	1% net city receipts.....	\$ 221	\$ 221
Aurora .....	Gas .....	\$1000 per year .....	1000	4037
	St. Railway ..	\$1000 per year .....	1000	
	Telephone ...	\$1 per phone.....	1537	
	Interurban ...	\$500 per year .....	500	
Belleville .....	St. Railway ..	\$5 per car.....	55	1158
	Interurban ...	5% gross receipts .....	1103	
Bloomington ..	St. Railway ..	2% gross receipts for 10 years, minimum amount to be next ten years at 4%..	3400	3400
Decatur .....	St Railway ..	\$10 per car.....	150	150
E. St. Louis ..	St Railway ..	\$25 per car.....	1600	1600
Elgin .....	Telephone ...	\$1 per phone.....	612	no data .....
	St. Railway ..	\$10 per car.....	data	
Joliet .....	Telephone ...	\$1 per phone .....	1317	3317
	Gas .....	\$1000 per year .....	1000	
	St. Railway ..	\$1000 per year .....	1000	
Ottawa .....	St. Railway ..	\$2000 per year .....	2000	2000
Peoria .....	Telephone ...	\$500 per year .....	500	500
	Interurban ...	Five cents per car entering terminal <sup>1</sup> .....		
Quincy .....	Telephone ...	2% gross receipts.....	963	1283
	St. Railway ..	\$20 per car .....	320	
Rockford .....	Electric Co...	2% gross receipts <sup>1</sup> .....	(900)	3320
	Telephone ...	2% gross receipts .....	760	
	Interurban ...	\$2000 per year .....	2000	
	Heat .....	2% gross receipts .....	560	

<sup>1</sup>Not enforced in 1909.

TABLE 17.—Continued.  
RATES, AND INCOME FROM FRANCHISES.

	Utility	Basis of Payment	Income	Total Income
Streator .....	Electric .....	2% gross .....	372	372
Springfield ....	St. Railway ..	\$10 per car.....	300	
		2% gross receipts for ten years; 4% for second ten years; for sewers and bonded indebtedness ....	3319	3619

return upon the actual capital invested, any payment for the privilege of operation would only increase prices to the consumer. Under the present system in Illinois, except for a very limited and unscientific control by city councils, the price of a utility commodity is "all that traffic will bear": that is, where the units consumed multiplied by the margin of profit will give the greatest return; and if the price is lowered it is because an increased consumption will more than offset the lower price. Under such methods of price fixing, any payment required for the franchise will be upon the profits of the company and cannot cause an increase in cost to the consumer.

In addition to the payments mentioned, some public service corporations are required to furnish limited free service to the cities in which they operate. Electric light companies usually give free light to the city hall, and occasionally to the fire stations. Telephone companies furnish from six to eighteen free instruments and charge for any number over that stipulated in the franchise. In addition to paving within their tracks and sprinkling the right of way, street car companies usually extend free transportation to numerous city officials. It is difficult to estimate the value of such services, but they exist in every municipality, and are perhaps worth from \$100 to \$500 per year, but have a much greater apparent value.

Table 18 is a statement of the dates of grant and expiration of the larger proportion of the franchises in force in the cities under consideration, and from it may be estimated the possibilities of franchise revenue being secured. Cities renewing franchises are likely to give more attention to this than when making the original grants. The inclination to encourage new enterprises by liberal

TABLE 18.

DATES OF GRANT AND EXPIRATION OF FRANCHISES.

	Gas		Water		Electric		St. Railway	
	Grant	Expires	Grant	Expires	Grant	Expires	Grant	Expires
Alton .....		1913	1907	1957		1913		
Aurora .....	1908	1958	Municipal		1908	1958	1909	1929
Belleville .....	1868	Perp.	1907	1932	1889	Perp.	1893	1919
Bloomington ..	1889	Perp.	Municipal		1909	1929	1909	1929
Champaign ...	1868	Perp.	1909	1939	Without			
Danville .....	1870	Perp.	1907	1932	1884		1898	1928
Decatur .....	1896	1995	Municipal		1893	1913	1901	1921
E. St. Louis....	1868	Perp.	1885	1915			1894	1914
Elgin .....	1868	1909	Municipal		1895	1920	1893	1913
Evanston .....			Municipal					
Freeport .....	1898	1928	1882	1912	1907	1937	1907	1937
Galesburg .....	1910	1930 <sup>1</sup>	Municipal		1890	1910	1890	1910
Jacksonville ...	1868	Perp.	Municipal				1868	Perp.
Joliet .....	1908	1958	Municipal		1897	1947	1898	1948
La Salle .....	1902	1932	Municipal		1902	1932	1904	1954
Moline .....	1909	1929	Municipal		1910	1930	1910	1930
Ottawa .....	1910	1960 <sup>2</sup>	Municipal		1910	1930	1910	1930
Peoria .....	1907	1947	1889	1919	1906	1926	1906	1926
Quincy .....			1904	1934				
Rockford .....	1868	Perp.	Municipal		1882	Perp(?)	1898	1923
Rock Island ...	1890	1910	Municipal		1882	Perp(?)	1899	1924
Springfield ....			Municipal				1907	1927
Streator .....	1910	1960	1886	1916	1889	1924	1889	1924
Urbana .....	1868	Perp.		1915	1908	1928		

<sup>1</sup>Price regulated every 5 years.

<sup>2</sup>Price regulated every ten years.

<sup>3</sup>Cancelled franchises for 25 years (1902).



TABLE 18.—Continued.

DATES OF GRANT AND EXPIRATION OF FRANCHISES.

	Interurban		Bell Telephone		Ind. Telephone		Heat	
	Grant	Expires	Grant	Expires	Grant	Expires	Grant	Expires
Alton .....			Without					
Aurora .....	1909	1929		Perp.	1899	1919		
Belleville .....	1893	1918	1882	Perp.	1899	1924		
Bloomington ..	1905	1955	1892	1912	1896	1921	1900	1920
Champaign ....							Without	
Danville .....	1902	1922			1902	1932	1895	1945
Decatur .....			1892	1912	1893	1913	1903	1933
E. St. Louis....			1897	1917				
Elgin .....			1894	1924			1900	1925
Evanston .....								
Freeport .....	Without		1910	1930	1901	1921		
Galesburg .....	Without		1882	Perp.	1905		1903	Perp.
Jacksonville ...								
Joliet .....	1906	1956	1897	1947	1899	1924		
La Salle .....	1904	1954	1901	1921			1902	1932
Moline .....	1910	1930	Without		Without			
Ottawa .....	1906	1926	1893	Perp (?)				
Peoria .....			1898	1918	1902	1922	1907	1947
Quincy .....					1904	1929		
Rockford .....			1891	Perp.	1901	1921	1902	1927
Rock Island ..			1910	1933	1908	1933		
Springfield ....								
Streator .....	1907	1957			1900	1921	1910	1935
Urbana .....				Perp.	1903	1933	1908	1928

terms is instanced by the large number of interurban franchises which have been issued in the last few years,—the majority of which extend for fifty years and are not subject to any special franchise payment.

Of 178 public utilities operating in 24 cities, data was secured on the length of franchise in 111 cases. In addition, 14 plants were municipal; seven were operating without a franchise, either normally, or pending settlement with the city; and in five cases only, the date of expiration was

not ascertained. Of the 111 franchises, 19 are perpetual, one is for ninety-nine years; 15 are for fifty years; three, for forty years; two are for thirty-five years; 16 for thirty years; 19, for twenty-five years; one for twenty-three years; and 35 are for twenty years.

The statement that nineteen of a possible 111 franchises are perpetual must not go unqualified. In several instances the franchises do not state the date of termination and will probably sooner or later be brought into the courts for interpretation. In at least one instance a gas franchise granted in perpetuity by the state legislature, has been challenged by the city in which the plant is operating. The legal department of the municipality maintains that the state grant applied only to gas for lighting purposes, and that its transmission for heating is without legal authority. In consequence an ordinance was passed regulating the sale of all gas, giving the company the choice of acceptance or of ceasing to sell for the purpose of heating and for power. The decision of the case will have an important bearing upon the remaining legislative franchises.

It is in relation to gas franchises that the interests of the municipalities have suffered most. Of 24 cases, eight franchises are perpetual; one is for 99 years, four for fifty years, and two others are for forty years. Five franchises are for a reasonable term, and in four instances data is missing. The telephone industry is a close second in this way, for out of fifteen "trust" franchises, five are perpetual.

Also, in certain cities there is an inclination to grant franchises for long terms. In Joliet, five out of six utilities may operate for fifty years, for which permission is paid \$2000 annually, plus a percentage of receipts, which last year amounted to \$1317. Aurora has two fifty year franchises granted as recently as 1908. Several cities have fifty year franchises granted since 1904, one of them (in Ottawa) cancelling a franchise for a shorter term to give the longer one.

The cities which have not qualified their franchises with provisions for payments will have an opportunity to do so within the reasonably near future. Out of 96 franchises to expire, 24 will end before 1921; during the next decade 38 of the remainder will terminate; from 1930 to 1940, 15 will be terminated; from 1940 to 1950, six. The 13 remaining franchises in operation, extend beyond the middle of the century. This number, considered with the nineteen perpetual franchises, places fifteen percent beyond the reasonable control of the municipalities.

Items of revenue from minor public privileges,—bay-windows, sub-sidewalks, etc., are absent from the budgets of the smaller cities. The revenue from the use of city streets and alleys has been spoken of in the consideration of the income from the use of public property.

#### SPECIAL ASSESSMENTS.

Special assessments are not in the usual sense city revenues since they are raised for a specific purpose and are kept separate from the general fund in the city treasury. They do, however, form an important part of the aggregate financial transactions of the municipalities; and their extent and significance should be noted.

A thoro consideration of special assessments would require an extensive study both of amounts expended and purchases, as well as the amounts delinquent, methods of assessment, interest, cost of collection, etc., matters which can only be mentioned here.

Pursuant to the constitution<sup>4</sup> the assembly has passed a series of acts permitting improvements by special assessment or special taxation to comprehend the following subjects: bridges, viaducts, water reservoirs and works, hydrants, water mains, drains, pumping stations, parks, boulevards, streets, alleys, and other public places. All or part of the cost is assessed upon the property benefitted in proportion to the benefit received, the residue of the cost

<sup>4</sup>Const. of 1870. Art. 9, par. 9.

being raised by uniform taxation.<sup>5</sup> The further restrictions are that the purpose be public; that the apportionment be in accordance with some general rule; and that no assessment be levied for repairs, since they contain no element of permanency,—with the exception that repair assessments are permitted on drains, ditches, and levees.<sup>6</sup>

The determination of the basis for apportioning the cost of such improvements is left to the city, and the courts are reluctant to inquire into the equity of the decision. The more usual schemes of assessment are based upon superficial area, actual value of the property, and frontage, the preference being with the latter method. In street paving if the corner lots face the paved street the narrow way, no assessments is made upon the lots fronting upon the side streets; otherwise the first three lots on the side street usually are assessed sixty percent, forty percent, and twenty percent of what would be the normal cost of paving in front of them. These percentages vary slightly in different localities.

The proportion of the cost borne by the municipality differs widely in the construction of sewers and other works, the determination of the public benefit being left to the boards of local improvement. In the building of streets it is customary for the city to assume the cost of the intersections. The percentages of the total cost borne in several cities ranges from 11.3% to 20%, depending upon the nature of the improvements. The intersection rule regarding streets places about 14.3% of the cost upon the city corporation.

In the process of local assessment the most prominent part is played by the board of local improvement,—a board whose technical officers are always the superintendent of streets and the city engineer. The ordinances to improve by special assessment or taxation originate in this body, either by petition or upon their own initiative. Public

<sup>5</sup>Chicago v. Larned, 34 Ill. 203, 282.

<sup>6</sup>Crane v. West Chicago Park Commissioners, 153 Ill. 348.



hearings are held upon any contemplated action, except the laying of house drains, sewer service pipes and sidewalks, which hearings consider the necessity, character, and cost of the improvement. Except in cities of over 100,000 population remonstrance petitions may be filed within thirty days suspending action for one year. The ordinance of improvement with estimated cost is then passed. Apportionment of the cost is made and the assessment roll drawn up, the latter being open to court reviews and revision. Supplementary assessments may be levied if the original sum is insufficient, provided that if the increase is more than ten percent the entire process of assessment must be repeated.

The collection of assessments is in the hands of the city collector until March 10th. He has no power to enforce payment; and the collection of delinquent sums is assumed by the county treasurer. After preliminary notices, these delinquencies are collected in substantially the same manner as delinquent property taxes, already described.

Contrary to what might be anticipated with taxes of this nature, the amount returned to County Collector for collection is considerably less proportionately than is the case with property taxes. For example in LaSalle only 12.4% of the total was returned to the county collector; in Peoria, 19.6%; Bloomington, 28.8%; and in Evanston, 42.5%.

The difficulties met in correlating the assessment to the actual cost of the improvement is apparent, and in consequence in practically every instance rebates are paid or new assessments are levied. The matter of rebating is of easy solution since the actual cost of the construction is known before even a few installments are paid, and any rebate may be prorated on future installments.<sup>7</sup> This naturally involves increased clerical cost. Deficits in the

<sup>7</sup>In Evanston the rebates on thirteen assessment funds were 3.5%; 2.8%; 6%; 11%; 11.5%; 10%; 25%; 30%; 14%; 14%; 24% and 20%. The largest percentages were upon sewer constructions.

fund are more serious and may be either the result of underestimates or of uncollected payments. In Freeport the liabilities are \$38,552 in excess of the special assessment assets, or 13.3% of the total. The Mayor of Peoria in an annual address to the city council<sup>s</sup> remarked that the "amount of improvement bonds outstanding is many thousands of dollars in excess of special assessments remaining uncollected".

The extensive precautions taken to protect the rights of the property owner have been mentioned, and these safeguards add a considerable cost to the assessment work. In Urbana, newspaper advertisements costs \$75 for each job, in addition to the printed notices sent to each person concerned. By statute the preliminary expense is limited to six percent of the total, and this allowance is entirely consumed in the smaller constructions. In cases involving larger amounts these preliminary expenses fall to three or four percent. An example of the costs involved in extending assessments may be taken from the collection returns in Evanston. Of \$126,144 expended, bonds, coupons, warrants, and miscellaneous funds took \$122,446, or 97%. Rebates amounted to \$1,061, or .08%, while the expenses incidental to collection, etc., took \$2,618, or 2.2%.

The surest criteria of the extent to which special assessments are used would be the amounts of improved streets, sewers and other public constructions in each city. Unfortunately not all city engineers are familiar with the total amounts of these works in their municipalities so a complete comparison is impossible. Of eight cities, however, the largest proportion of paved streets was in Freeport, being 45.3% of the total; Springfield followed with 45%; and Rockford with 44%. The smallest percent is in Galesburg which has only 21.4% improved; the next lowest being Decatur with 28.7% improved.

Regarding sewer construction, Danville has one mile for every 490 inhabitants, Bloomington and Freeport fol-

<sup>s</sup>E. N. Woodruff, in the *City Comptroller's Report*, 1909.

lowing with 500 and 515 persons per mile. The largest population per mile is in East St. Louis, which city has 1310 persons for each mile of sewer. In the larger cities, however, there is a tendency to have fewer sewers in proportion to the population, as the per mile population in Springfield is 850, in Rockford is 835, and in Galesburg 720.

The contractor for special assessment work receives as payment bonds payable in five or ten annual installments (thirty in the case of water works), bearing interest at 5%. Such bonds are not a lien upon the city, but upon the property of the individual, altho the municipality undertakes and guarantees the collection. The amount of bonds outstanding in the cities, would, however, fail to indicate the extent to which assessments are used since the amount is decreased by one-tenth each year, and the constructions doubtless have a longer life than this period. This statements is supported by a comparison of the per capita special assessment bond indebtedness in a few cities. Aurora has such per capita indebtedness of \$5.35; Decatur of \$3.00; Elgin, \$6.40; Freeport, \$14.70; LaSalle, \$4.00; and Peoria, \$6.30,—a considerable variation compared with the paved streets to total streets, which range from 20% to 40%.

For the same reason the amount of cash collected each year to retire bonds, or the amount of bonds issued, is a false indication of the importance of assessments in municipal finance,—the latter sum even more so than the former, since the amount of construction work fluctuates widely from season to season.

## CHAPTER V

### MUNICIPAL INDUSTRIES AND PROPERTY.

Judged by the gross revenue received, municipal industries rank third in importance as sources of municipal income. But the gross income from such sources is largely if not wholly absorbed by the expenses, and in most of the cities under review municipal industries are conducted at a loss. The net income from such sources and its percentage of the total revenue for general purposes, as shown in the concluding chapter, is of small importance.

By municipal industries are meant those undertakings which involve the distribution of economic goods for a price, thus excluding such functions as police, fire protection, and schools, all of which are contemplated if not distinctly recognized in the present state constitution. There is no distinct constitutional provision authorizing municipal industries; and most undertakings are of later origin than the present state constitution, resting on legislative grants under the residual powers of government.

The municipal industries conducted by the cities studied are of three main classes: water works, electric light plants and cemeteries. Water works and cemeteries may produce a net revenue. Electric light plants in the cities studied have no income, as they are used only for public lighting. But they are considered here because of their close relation with the operation of municipal water works, of which they are usually a part.

Some incidental income is also derived from libraries, hospitals, sewers, real estate and other property.

#### WATER PLANTS.

Legislative enactments of 1873 and 1879<sup>1</sup> authorized the establishment of municipal sewers and water works, tho both of these might have been constructed under the

<sup>1</sup>Hurd's *Revised Statutes* (1908), ch. 24, pars. 254 and 323.



police powers of the cities.<sup>2</sup> Earlier legislation relative to waterworks provided for the lease of plants, and for making contracts for a supply of water from private firms for a period of not more than thirty years. In case of leasing any surplus over the cost of operation might be applied to the erection and extension of a municipal plant. An act of 1905<sup>3</sup> provides that plants may be bought or erected upon a favorable three-fourths vote of the citizens, a direct tax of not more than one percent defraying the cost. Bonds may be issued against these taxes bearing interest at six percent. The water rates must be sufficient to provide for payment of the bonds, interest, maintenance and operation of the works, extensions and repairs. Thus Illinois has gone far in the protection of the taxpayer from impositions in the interest of the water consumer. There are no good reasons for, and many against paying for extensions from the water rates. These should be charged to capital account, and made neither a burden upon the tax payer, nor upon the present consumer.

Should the preceding provisions prove inadequate to public need, there are other provisions which authorize a one mill tax for the extension of mains, maintenance of plant, or for refunding debt.<sup>4</sup> By a two-thirds vote, this tax may be advanced to three mills. Cities when buying plants may also pledge the revenues as security for the bonds issued, and may execute a mortgage or trust deed for the property.<sup>5</sup> In case of reversion to the original owner, any franchise rights pre-existing become operative.

Of the twenty-four cities which were investigated, fourteen have availed themselves of the privilege of establishing water plants; and data concerning the operation has been secured from thirteen of these.

In table 22 is shown the amount of money derived annually from water rents in the several cities; but such

<sup>2</sup>Goodnow, *"City Government in the United States"*, p. 165.

<sup>3</sup>*Rev. Stat.* ch. 24, par. 270h-q.

<sup>4</sup>*Ibid.* ch. 24, par. 281.

<sup>5</sup>*Ibid.* ch. 24, par. 270d.

revenue should be offset by the operating expenses, interest on the value of the plant and depreciation allowances. When this has been done the revenue usually becomes a deficit, which sooner or later, must be made up from the general fund of the city, by the issue of bonds or by taxes. This deficit may be considered the amount which the municipality contributes in payment for the water pumped for public buildings, and as rental for fire hydrants. Such accounting contemplates the city water plant operated as a separate and distinct institution, earning its own way independently of the city treasury, charging the water consumer for his benefits, and the tax payer for the benefits rendered to the city at large.

It is sometimes assumed that the water consumer and the taxpayer are identical, and that the separation of the two for a study of water revenues is unnecessary. Such is not the case, nor can a practice followed uniformly by public utility commissions be renounced by such argument. There is ample evidence that not all urban inhabitants are direct water consumers. Not only are there sparsely settled sections which are not reached by the water mains, but limited sections of the more densely parts are not served. If we may estimate that five persons (the ordinary family) are served by each water service, then in Rockford, 35,000 out of a population of 42,000 are water consumers; in Bloomington, 10,000 of 26,000, etc. Roughly, twenty percent of the people receive benefit from water works, who do not contribute to their support by domestic consumption. But should it appear that the tax payer and the water consumer become largely the same persons, this fact does not justify an unbusiness like management of waterworks.

The Wisconsin Railroad Commission has a system for the separation of the cost of the public from the domestic service which is preferable to one based on the above mentioned distinction.<sup>6</sup> Each water plant has an investment

<sup>6</sup>Wisconsin Railroad Commission. *Pub. U.*—52. (*City of Ashland v. Ashland Water Company.*) 205.

above that required for domestic purposes, which is occasioned by the necessity of fire protection and other public needs. The commission therefore divides the investment for these two purposes, and upon this basis estimates the cost of depreciation, interest and maintenance chargeable to each. While this is of course the correct method its use is only possible by means of a detailed engineering valuation. However, it is not here the purpose to determine the equitable charges for the taxpayers and water consumers of Illinois cities, but rather to compare the different costs of operation, and to point out in certain cases matters which are worthy of explanation or investigation by the individual superintendents.

It may be necessary to defend the view that a municipal water plant should earn a reasonable rate of interest upon the amount invested. If, however, we are willing to divorce the personality of the water consumer from the taxpayer, the justice of such a demand is apparent. While the value of the plant is represented by bonds, the necessity of the plant earning interest upon these bonds will hardly be questioned. When such bonds have been refunded, or have been retired through the exercise of the taxing power, it would seem that a sum equal to the original interest should still be turned into the city treasury,—in one case to pay the interest on the new bonds; in the other to recompense the tax payers for the use of the funds. It may be argued that the state law already mentioned requires that the erection bonds be retired from the earnings of the plant. One looks in vain, however, either for any authority to put such a requirement into effect, or for evidence of its enforcement, as exhibited by a statement of municipal indebtedness.

The major proportion of municipal bonds are outstanding at from four percent to four and one-half percent interest.<sup>7</sup> Four percent has been taken as reasonable for a plant to earn, without regard to the rate in any particular

<sup>7</sup>See Table 29.

city. Such a rate is conservative, and makes some allowance for the uniformly excessive valuation of the properties.

The necessity of charging depreciation against a plant is more apparent, and only one instance will be presented as evidence. Springfield found itself at the beginning of 1909 with a badly delapidated plant, capable of maintaining at times only twenty pounds of pressure. Repairs and renewals were badly needed, but since the city had reached the debt limit no bonds could be issued; and since no depreciation fund had been maintained the money must first be earned by the plant itself. The results of such methods are wasteful operation, high charges and poor service. The estimated life of four municipal water plants in Wisconsin was 65.25 years or a depreciation of something less than two percent per year.<sup>8</sup> This latter rate might be assumed

<sup>8</sup>The calculations of the lives of the various units of utility equipment, upon which this estimate was based, were kindly furnished by Mr. Edwin F. Gruhl, Statistician for the Railroad Commission of Wisconsin, and are as follows:

Wells, driven or drilled .....	100	years.
Wells, large open, stone or brick walled.....	50-100	"
Suction pipes and intakes.....	50-100	"
Stand pipes .....	50- 75	"
Reservoirs .....	75-100	"
Filter beds .....	100	"
Cast iron mains, fittings, valves.....	100	"
Hydrants .....	50	"
Wrought iron mains, services		
galvanized .....	50	"
black .....	35- 40	"
Services, lead .....	100	"
Fittings and valves in service given a life as in pipe lines in which located.		
Meters .....	25	"

Using lives similar to these, the average rates of depreciation for entire waterworks systems were computed as follows:

Antigo Water Works.....	60.03	years
Manitowoc Water Works .....	66.16	"
Superior Water, Light and Power Co.....	67.29	"
Chippewa Falls Water Works and Light Co.....	67.60	"
Average .....	65.25	"



were the depreciation fund to lie idle and earn no interest. In private plants depreciation funds may be reckoned as earning 4% compound interest. In the case of public plants the funds will possibly be idle, or even more probably spent. In this latter case we may assume that the fund becomes a debt of the city and is worth at least four percent simple interest. The rate of depreciation may then be said to lie between one-half percent and two percent of the depreciable value,—and by depreciable value is meant the cash value, less real estate, paving, services where paid for by the consumer, and extensions made during the current year. The mean figure of one percent is usually allowed by engineers as a reasonable depreciation upon this value. Tho this latter amount cannot be known for the plants here in question, we will assume that this depreciation applies to the total value.

In the following table is shown for thirteen cities, the estimated value of the plant, interest, depreciation and cost of operation, making a total of all costs; and the excess of this sum over the revenue received, which may be taken as the amount paid by the city for the public service of the plant. In the last column this deficit is shown as cost per hydrant. In the second table is presented the average daily pumpage of each city; the total cost (interest, depreciation and operation) for pumping each million gallons; the actual cash income from water rents for each million gallons; and the actual cost of operation per million gallons.

These tables are self-explanatory and carry in some degree their own criticism. While it is unfair to criticise the administration of any particular city because of high cost of operation,—since the conditions of operation in different cities are decidedly different, yet taken as a whole the tables may indicate the general tendencies of municipal management.

It will be noticed that three of the thirteen cities,—Decatur, Evanston and Springfield, are operating water works with a distinct surplus above a liberal estimate for

all expenses. In such instances the consumer is not only paying for his own water, and for the service to the city, but is turning considerable profit into the city treasury. In Springfield the conditions make such results necessary, for reasons already stated; but in the two other municipalities, it appears that the water rates might reasonably be lowered.

On the other hand, two cities, Joliet and LaSalle, are evidently operating their plants at a loss. The public

TABLE 19.

STATISTICS OF MUNICIPAL WATER PLANTS AND COST PER HYDRANT IN ILLINOIS CITIES, 1909.

	Estimated Value of Plant	Interest at 4%	Depreciation at 1%	Cost of Operation	Total of All Costs <sup>3</sup>	Income from Water Rents	Deficit over Income	No. of Hydrants	Cost per Hydrant
Aurora ....	\$500,000	\$20,000	\$5,000	\$26,000	\$51,000	\$45,032	\$5,968	517	\$11.50
Bloomington	350,000	14,000	3,500	25,268	42,768	34,307	8,461	506	16.72
Decatur ...	450,000	18,000	4,500	28,000	50,500	60,000	9,500 <sup>6</sup>	540	Profit
Elgin .....	585,000	23,400	5,850	19,488	48,738	42,000	6,738	430	15.67
Evanston ...	600,000	24,000	6,000	27,873	57,873	93,697	35,824 <sup>6</sup>	578	Profit
Galesburg ..	285,000	11,400	2,850	19,530	33,780	24,614	9,066	386	23.49
Jacksonville	225,000 <sup>2</sup>	9,000	2,250	11,002 <sup>4</sup>	22,252	16,554	5,698	205	27.70
Joliet .....	600,000	24,000	6,000	34,985	64,985	32,000	32,985	341	96.73
LaSalle ....	250,000	10,000	2,500	15,297	27,797	15,694	12,103	105	115.26
Ottawa ....	235,000	9,400	2,350	8,000	19,750	14,266	5,484	167 <sup>1</sup>	32.83
Rockford ..	849,094	33,963	8,490	31,833	74,286	64,449	9,837	510	18.05
Rock Island	900,000	36,000	9,000	28,000	73,000	64,700	8,300	254	32.68
Springfield .	707,811 <sup>3</sup>	29,750 <sup>3</sup>	7,078	54,258	91,086	123,083	31,997 <sup>6</sup>	906	Profit

<sup>1</sup>Actually used by water plant.

<sup>2</sup>Estimated.

<sup>3</sup>It is estimated that \$850,000 of the banded debt of the city is chargeable to the water works. The interest is at 3½%.

<sup>4</sup>8 mo. + pay roll for 4 mo.—

<sup>5</sup>To be accurate an estimate of the taxes should be included in this cost. Owing to the different rates of assessment and taxation, the item of taxes is omitted.

<sup>6</sup>Surplus of income over all costs.

TABLE 20.  
STATISTICS RELATIVE TO COST OF OPERATION PER MILLION GALLONS PUMPED  
BY MUNICIPAL WATER PLANTS.

	Average Daily Pumpage, Gals.	Total Cost per Million Gallons	Income per Million Gallons	Cost of Operation per Million Gals.	Miles of Mains	Hydrants per Mile	Average per Cap. Daily Consumption	Kind of Service
Aurora .....	1,789,000	\$78.30	\$69.00	\$40.00	61	8.5	60	Metered
Bloomington ....	1,750,000	67.00	53.75	39.60	46.75	10.8	67	Metered
Decatur .....	3,000,000	46.00	92.00	25.30	50	10.8	96	Metered
Elgin .....	2,292,000	58.00	56.15	22.15	56	7.6	88	53% <sup>1</sup>
Evanston .....	6,056,000	26.00	42.20	12.60	75.067	7.7	148 <sup>3</sup>	Partly?
Galesburg .....	2,000,000	46.20	33.80	26.80	37.25	10.3	90	Metered
Jacksonville ....	800,000	77.10	56.75	37.65	30	6.8	52	Metered
Joliet .....	4,500,000	39.40	19.50	21.12	39.38	8.6	129	32% <sup>1</sup>
LaSalle .....	2,500,000	32.00	17.20	16.80	16	6.5	216	None?
Ottawa .....	600,000	90.20	65.00	36.50	27	6.2	54	Metered
Rockford .....	3,612,000	56.50	48.90	24.20	90.5	5.7	85	51% <sup>1</sup>
Rock Island ....	3,500,000	55.80	48.50	21.40	37	6.8	134	15% <sup>2</sup>
Springfield ....	4,678,000	53.50	72.00	31.80	97	8.3	90	51% <sup>1</sup>

<sup>1</sup>Of the water revenue is from metered services.

<sup>2</sup>Of the services are metered.

<sup>3</sup>Supplies a suburb at a flat rate.

cost of maintaining hydrants in these corporations is estimated at \$96.73 and \$115.26 respectively, which based upon the rates charged by private plants is excessive. The average rate charged by water companies in seven cities of the state (without reference to the number of hydrants in each city) is \$47.66,<sup>9</sup> the range being from \$25 in Peoria to

<sup>9</sup> Alton .....	276 hydrants	@ \$50.00
Champaign .....	172	" @ 40.00
Danville .....	440	" @ 40.00
Freeport .....	190	" @ 50.00
E. St. Louis.....	125	" @ 80.00
	150	" @ 70.00
Peoria .....	1000	" @ 41.60
	113	" @ 25.00
Streator .....	112	" @ 45.00
	161	" @ 50.00

\$80 in East St. Louis. The normal rate is between \$40 and \$50 per hydrant. The unweighted average cost per hydrant in the ten municipal plants not operating at a profit is \$44.97, while in most of the cities the cost is between \$15 and \$33. A more exact statement would be to say that the whole public service, cost this much per hydrant, since no allowance has been made for water consumed for other public purposes.

If two cities are operating municipal plants to their direct financial detriment, to what causes may this loss be ascribed? In both Joliet and LaSalle the amount of water pumped is large for the amount of capital invested, so excessive interest and depreciation charges may not be advanced as reasons. The two remaining factors which influence the charge to the municipality are the cost of operation and amount of income from water rents. In both cases under consideration the former charges are low, being \$21.12 per million gallons in Joliet, and \$16.80 per million gallons in LaSalle. At the same time, the amounts received for water in these cities are relatively small compared with the sums received in neighboring municipalities, being under \$20.00 per million gallons in both instances. Since the loss can neither be ascribed to the fixed charges nor extravagant operation, it follows that the rates charged in these cities are too small for successful operation of the plants. In these two instances the water consumer is profiting decidedly at the expense of the tax payer.

In other instances the reverse is true. For example, Aurora receives \$69.00 per million gallons pumped; Decatur, \$92.00; Ottawa, \$65.00; and Springfield, \$72.00; while the incomes of several other cities ranges above \$50.00 per million gallons. In all of the above mentioned cities except one (Ottawa), the cities are receiving fire protection free, or at a cost of less than \$17.00 per hydrant; and this in spite of the fact that two of the municipalities (Aurora and Bloomington) have high operating costs. Under such conditions the taxpayer profits at the expense of the water consumer.



It has been mentioned that in two cities the cost of operation was high compared with the other plants of the state. Conditions of operation vary widely in different localities, and it is unfair to make a hurried judgment concerning the efficiency of management in any particular city. We may, however, compare the cost of operation in the municipal plants of the state with similar items of typical private plants. The operating expenses per million gallons for nine private plants in Wisconsin, were during recent years, as follows: Appleton, \$36.73; Beloit, \$23.35; Eau Claire, \$18.24; Fond du Lac, \$20.31; Green Bay, \$48.79; and Sheboygan, \$24.74. An average for the nine plants is \$29.78 or allowing for pump slip (which was done in the figures for municipal plants) is \$33.08.<sup>10</sup> The average cost of operation per million gallons for thirteen municipal plants in Illinois is \$27.38 per million, and eight of the number fall considerably below this figure. This would seem to indicate that municipally operated plants compare successfully with those in private hands. It must be remembered, however, that municipal plants pump large quantities of free water, and frequently have unmetered service, in which events the favorable showing of public plants might be accounted for by the law of decreasing costs,—with cheapened increased production, rather than thru any retrenchment or economical administration by public officials. Caution would commend this latter view.

The situation may be further analyzed by comparing the ratio of operating expenses to revenues in public and private plants. In Wisconsin private plants are allowed to earn operating expenses, plus a reasonable profit, and depreciation. The "total of all costs" shown in table 21 represents the same earnings for municipal plants. For ten private plants the percentages in 1908 were:<sup>11</sup>

<sup>10</sup>R. R. Com. of Wis., *supra cit.*, 283.

<sup>11</sup>*Supra cit.* p. 282.

TABLE 21.

## RATIO OF OPERATING COSTS TO RECEIPTS IN PRIVATE WATER PLANTS.

Appleton Water Works Co.....	63.04%
Beloit Water, Gas & Electric Co.....	41.01
Eau Claire Water Co.....	38.04
Fond du Lac Water Co.....	33.69
Green Bay Water Co.....	42.73
Janesville Water Co.....	47.40
Manitowoc Water Co.....	46.99
Marinette City Water Co.....	34.57
Sheboygan City Water Co.....	27.34
<i>Average</i> .....	39.34

For thirteen municipal plants in Illinois the ratio of operating costs to revenue and to "total of all costs" is:

TABLE 22.

RATIO OF OPERATING COSTS TO RECEIPTS AND "TOTAL OF ALL COSTS"  
IN MUNICIPAL WATER PLANTS.

City.	Revenue	"Total of all Costs."
Aurora .....	57.8%	52.1%
Bloomington .....	74.0	59.2
Decatur .....	46.7	55.4
Elgin .....	46.4	40.0
Evanston .....	29.7	48.3
Galesburg .....	79.1	58.0
Jacksonville .....	66.5	49.4
Joliet .....	109.2	54.0
LaSalle .....	97.5	53.0
Ottawa .....	56.0	40.5
Rockford .....	49.5	43.0
Rock Island.....	41.7	38.4
Springfield .....	44.1	50.6
<i>Average</i> .....	61.3	50.2

From these two tables it appears that one city is operating its water works at a net loss, another within 2.5% of its income, and seven spend more than one-half of their income for operating expenses. Either the operating expenses of municipal plants are too high or the charges for water are too low. The second column of the second table shows operating expenses in relation to the "total of all costs". A liberal allowance has been made

for interest and depreciation, yet the percent for operation, with one exception, is higher than the average for private plants. On the average the ratio is ten percent higher. While these figures are not favorable to, they are not an arraignment of municipal ownership. As counter argument it may be advanced that low rates are accompanied by liberal use of water, which is a matter of city policy and not of plant management.

Meter or fixture rates have a decided influence upon the net revenues of a water plant. A metered plant may operate at a loss thru extravagance or low rates; a fixture plant has the handicap of wasted water in every case. In table 20 is stated the per capita daily water consumption of the cities under consideration. The metered plants have an average daily consumption of 69 gallons per person, while the average for the remainder is almost double or 132 gallons. The purpose of the meter is not to require excessive payment, but to regulate the consumption of water. In fact, in Springfield, the consumer saved from 25% to 50% by the adoption of meters.<sup>12</sup> The sudden adoption of meters, because of the large decrease in consumption means a temporary diminution of the city income until the saved water is purchased by new users. The saving in the cost of operation, however, is noticeable from the beginning. In Elgin with only one-half of the taps metered, the saving in one year (1907-08) was \$6,000, the annual pumpage being reduced 50,000,000 gallons. The wasted water is paid for, not in proportion to what is wasted by the individual, but in proportion to what is wasted on the average. It is only equitable that each consumer should pay upon a graduated scale for the water which he consumes, plus a fixed charge for booking, repairing, cost of meters, meter reading, and other incidental expenses.

<sup>12</sup>Springfield, Ill. Annual Report of Water Works, 1910, p. 7. In this excellent report upon a rather inadequate plant, Mr. Willis J. Spaulding presents some very reasonable arguments for metered service and for the payment of extensions by the property frontage owner.

A further immense loss to commercial revenues is due to the loss of water by leakage. An investigation of the municipal plant at Madison, Wis., showed that only 45% of the water pumped reached the consumer. A very conservative estimate for the city of Springfield was that 22% of the pumpage was being lost. The estimated life of water pipes is one hundred years. In heavy soils mains may last longer than this; but in light or stony ground, or where there is action by electrolysis, the duration cannot be estimated. Perhaps several municipalities which are contemplating new wells and enlarged plants to supply the demand for water, might find it cheaper to rent a pitometer and investigate the conditions of mains lying parallel to street car tracks, or which have been long in the ground.

In connection with water mains a word may be added concerning the extension of the distributing system. It has been urged that the cost of laying new pipes be charged to frontage by special assessment rather than paying it from the water fund or from general taxes. Nearly one-half the cities mentioned here have adopted this method in whole or in part, altho many miles of mains have been previously laid out of the water fund.

Under the water fund plan of extensions there is a constant rivalry of different sections of the city to secure water services. Since the funds are limited, favoritism and ill feeling may be expected, combined with an absolute restriction upon the growth of the city. Moreover, when pipes are laid in sparsely settled districts, there is a distinct rise in property values to which the owner has contributed nothing, the water consumer bearing the cost. Under the old system the consumer, in the end, not only paid for his own frontage, but also for the frontage of the vacant property owner. The change to the special assessment method would mean that the consumer would pay for his own frontage in a lump sum, and be relieved from paying the cost of his neighbor's improvement.



## LIGHTING PLANTS.

Municipal lighting plants in Illinois yield no direct revenue to the city treasury, since they are not permitted to undertake commercial lighting; yet they should be considered owing to their close relation to municipal water plants. In all the cases of public lighting systems considered the lighting plants are a part of the water works, and are charged a fixed proportion of the costs of operation.

An act of the legislature of 1883<sup>13</sup> permits cities to levy a three mill tax to be used exclusively for the purpose of lighting streets. Under this act, six cities do their own public lighting, a statement of their costs being presented in table 23.

TABLE 23.

STATISTICS RELATIVE TO COST OF OPERATION IN MUNICIPAL LIGHTING PLANTS.

	Estimated Value of Plant	Interest at 4%	Depreciation at 3%	Cost of Operation	Total of All Costs	Number of Lamps	Cost per Lamp
Aurora .....	\$ 40,000	\$1,600	\$1,200	\$10,014 <sup>1</sup>	\$12,814	\$418	\$30.65
Bloomington .....	100,000	4,000	3,000	17,291	24,291	442	54.95
Decatur .....	85,000	3,400	2,550	14,000	19,950	300 <sup>2</sup>	66.50
Galesburg .....	45,000	1,800	1,350	10,000	13,150	336	39.13
Jacksonville .....	25,000	1,000	750	8,000	9,750	226	43.14
LaSalle .....	50,000	2,000	1,500	5,500	9,000	114	79.82

<sup>1</sup>\$5842 for seven months.

<sup>2</sup>Is rapidly increasing number to a maximum of 700.

The matter of interest on the value of public plants has been previously discussed, the rate taken being four percent. The rate of depreciation is much higher in electric plants than in water works. From data furnished by the Railroad Commission of Wisconsin the average life of

<sup>13</sup>*Rev. Stat.* (1908), ch. 24, par. 281.

a complete electric light plant has been estimated at 17.46 years.<sup>14</sup> In municipal plants, maintaining only an arc system, the average life would be a trifle longer. The Wisconsin Commission estimate, in the case of the Menominee and Marinette Light and Water Co., was 19.72 years. This would require a simple depreciation charge of five per cent per annum; or allowing four percent compound interest upon the depreciation fund, the necessary rate would be 2.42%. At three percent interest, the rate would be 2.85%. Between these limits three percent may be considered as a fair rate of depreciation.

In Table 23 is shown the estimated value of the public lighting plants; the interest on these sums at four percent; depreciation at three percent; cost of operation for the

<sup>14</sup>The unit lives involved in municipal lighting are:

Generators and rotaries.....	20	years
Static transformers .....	20	"
Steam turbo-generators .....	20	"
Switchboard and wiring complete.....	20	"
Lightning arresters .....	10	"
Weather proof copper wire installation.....	16	"
Underground cable .....	25	"
Aerial cables .....	15	"
Manholes .....	50	"
Conduits .....	12-18	"
Cedar poles in earth .....	20	"
Cedar poles in concrete.....	40	"
Pole anchors and guys.....	12-15	"
Service transformers .....	15	"
Arc lamps and span equipment.....	15	"

With unit lives similar to these, the composite life of complete electric systems was computed as follows:

Madison Gas & Electric Co.....	17.2	years
Ripon Light and Water Co.....	18.24	"
Superior Light & Power Plant.....	17.91	"
Chippewa Falls Water Works & Light Co.....	15.60	"
Green Bay Traction Co.....	10.73	"
Ashland Light, Power & Traction Co.....	17.04	"
Wisconsin Traction, Light and Power Co.....	20.50	"
Menominee Light & Traction Co.....	17.54	"
Average .....	17.46	"

last fiscal year; "total of all costs"; number of lamps and the estimated cost per lamp.

The figures for the total cost per lamp may be compared with the prices paid to private plants in the cities not having municipal plants. In table 24 these are given with the number of lights and the schedule upon which they are run.

TABLE 24.  
CHARGES BY PRIVATE ELECTRIC LIGHT PLANTS FOR ARC SERVICE.

City	No. of Lights	Charge per Year	Schedule
Alton .....	250	\$69	Philadelphia
Belleville .....	351	70	Complete
Danville .....	55	60	Complete
	425	40	Philadelphia
Elgin .....	247	58	Complete
	103	48	Limited
	43	42	Limited
Evanston <sup>1</sup> .....	386	60	Philadelphia
Freeport .....	130	70	
Rockford <sup>2</sup> .....	501	52	Complete
Rock Island .....	287	60	
Streator .....	161	65	Philadelphia

<sup>1</sup>New schedule now in force,—\$62.50 for overhead service; \$72.50 for conduit services, all complete.

<sup>2</sup>City owns the means of distribution.

Such a comparison is, however, of limited value. In the first place municipal plants do not adopt a steady schedule, but burn their lights as the circumstances require. Further, no great dependence can be placed upon the valuation of the plants or upon the costs of operation which are given. In most cases the estimated values are percentages of the total figures for the municipal water plants. The lighting plants could probably be duplicated in every case for the amount stated; but the operating costs cannot be accurately checked against them since these are frequently given as one-third of the combined costs of operating the light and water plants.

Remembering these limitations upon the accuracy of our figures, it appears that three cities,—Aurora, Galesburg and Jacksonville, are securing light at a less cost than could be done by private contract. In the other three cities the cost of municipal lighting appears to be more than the lowest charge made by private plants, but in two cities the circumstances point to an actual cost which is lower than that shown here. Galesburg is rapidly extending to a 700 light system; while the figures from Bloomington appear to be purely guess work rather than a careful estimate. When lighting plants are operated in combination with municipal water works, using boilers which otherwise would stand idle at night, the result should be lighting at a small cost. Some superintendents complain that since they are not allowed to sell commercial power and light, the plants are at a disadvantage. Such permission would put into usefulness valuable machinery which is now idle during the day time. In small cities where municipal lighting is the principal item of light, the erection of a private plant in addition to a municipal plant is a useless duplication of works; or the introduction of modern lighting is delayed until the private industry can be supported without the public contracts.

#### CEMETERIES.

Public cemeteries are authorized by an act of the legislature of 1874, which permits cities and villages to acquire property, sell lots, and provide a board of control for burial grounds.<sup>15</sup> Burial grounds are owned by seven of the municipalities visited and in an eighth (Moline) they become public in 1912. These undertakings, however, are of small importance, as sources of revenue. The charges are not such that public operation can be compared with that of privately owned grounds. From the point of revenue the possession of these grounds is a decided loss. Omitting from consideration, both the interest on the

<sup>15</sup>*Rev. Stat.* (1908) ch. 21, par. 5.



original investment, and the constant depreciation from the sale of lots, the cost of operation and maintenance exceeds the income in three of the five cases in which the costs were obtainable. The sums involved, however, are inconsiderable. The following table shows the revenues as well as the cost of operation where this item could be secured.

TABLE 25.

INCOME AND COST OF OPERATION OF MUNICIPAL BURIAL GROUNDS.

City	Interment Fees	Sale of Lots	Miscellaneous Revenue	Total Revenue	Cost of Operation
Aurora .....	.....	.....	.....	\$2646	\$1296
Belleville .....	\$2266	\$1455	.....	3721	3500
Bloomington .....	334	304	4	638	841
Elgin .....	1420	4177	1141	6738	7220
Freeport .....	.....	259	238	497	1697
Galesburg .....	.....	.....	.....	1487	.....
Jacksonville .....	.....	.....	.....	2160	.....

## PUBLIC LIBRARIES.

The income accruing to libraries might be tabulated with other city revenues, according to its source,—as fines, rents, etc. For purposes of comparison, however, and since these sums seldom reach the city treasury, it is preferable to treat library revenues as distinct from those of the city.

In Table 26 is shown the miscellaneous income from twenty-two public libraries. The latter part of this table refers to book circulation which more or less influences the amount of income.

Two libraries, in Alton and Ottawa, are dependent upon endowment for practically their entire support, the latter receiving a city appropriation of only \$500 per year; Champaign is partially independent of municipal support. Evanston has two small funds, the interest of which is applied to the purchase of books upon medicine and music.

Quincy has for general purposes the income on a very small amount of money. Even aside from the gift of library buildings by one individual, public libraries are the most favored of city institutions by private benefactors. In Alton, Champaign and Ottawa, the libraries are housed in buildings furnished by the donor of an endowment; while in Alton and Ottawa, the endowment is sufficient to place the management independent of city control.

TABLE 26.

STATISTICS OF PUBLIC LIBRARIES. ILLINOIS CITIES, 1909.

	Fines	Renting Collection	Rents	Endowment Income	Other Misc. Revenue	Total Misc. Revenue	Endowment	Av. Daily Circulation	Pop. per Daily Book Cir.
Alton .....	\$ 253	none	none	\$2,400	none	\$2,653	\$50,000	284	61
Aurora .....	396	none	none	none	none	396	none	312	95
Belleville .....	97	31	none	none	none	128	none	150	140
Bloomington ..	—	150	950	none	350	1,450	none	325	80
Champaign ...	243	none	10	500	none	753	10,000	160	77
Danville .....	239	none	none	none	none	239	none	270	103
Decatur .....	358	none	none	none	none	358	none	362	86
E. St. Louis ..	238	none	none	none	30	268	none	352	166
Elgin <sup>1</sup> .....	229	none	none	none	none	229	none	681	— <sup>1</sup>
Evanston .....	881	235	—	362	252	1,730	6,925	353	70
Freeport .....	79	18	none	none	none	97	none	214	82
Galesburg .....	370	341	none	none	179	890	none	505	43
Joliet .....	403	none	—	none	639	1,042	none	386	89
Ottawa .....	89	none	75	4,718	5	4,887	75,000	71	134
Peoria .....	1,017	none	188	none	none	1,205	none	679	68
Quincy .....	24	none	25	65	none	114	none	330	110
Rockford ....	398	220	430	none	none	1,048	none	537	84
Springfield ...	476	none	none	none	41	517	none	337	153
Streator .....	181	none	none	none	25	206	none	173	82
Urbana .....	40	none	none	none	none	40	none	108	76

<sup>1</sup>Township library.

Fines, which are first in importance of the incidental revenues, bear some rough relation to the number of books in circulation. This relationship is, however, far from exact, indicating probably, not a difference in the prompt-

ness of book borrowers, but rather a variation in the enforcement of library regulations.

Six libraries rent portions of their buildings, gaining in two instances a considerable income by this means. Carnegie-built libraries are frequently larger than is now needed for library purposes, affording space which may be rental to clubs, or occasionally is occupied by the permanent offices of the school board.

It is somewhat surprising to find that only six libraries have introduced the "renting collection".<sup>16</sup> While this field is limited to the newest and most popular fiction, the books are put in circulation as soon as paid for by the rent secured, permitting the general revenues to be applied in a more profitable direction. The figures on the relation of circulation to population indicate the wide range of library effectiveness in the several cities. This may be due in part to the variation of types of population; but the library management cannot be entirely exonerated.

#### CITY HOSPITALS.

Public hospitals may be established upon a majority vote of the citizens, on a proposal initiated by one hundred petitioners. Except for paupers reasonable compensation must be exacted for services rendered.<sup>17</sup> An examination of the city reports shows no returns from this source paid directly to the city treasury, altho in Ottawa the sum of the collections was reported to the city council. The public hospitals in Illinois are quasi-private institutions, to which appropriations are made by the city, or financial provision is made for the care of cases for which the city is responsible.

Recent legislation has also provided for the establishment of tuberculosis sanitariums and legalized a four mill tax for their support.<sup>18</sup> Services are to be free except for

<sup>16</sup>Books rented at nominal charges.

<sup>17</sup>Laws of 1909, p. 308.

<sup>18</sup>*Rev. Stat.* ch. 24, par. 685.

medical attendance and similar charges. Several cities have authorized such institutions but their erection is delayed until financial difficulties can be cleared up.

#### STREET RAILWAYS.

There are no municipal traction systems in operation within the state, tho such are authorized under certain conditions.<sup>19</sup> Cities may organize and own street railways upon approval by a majority of the voters voting on such a proposition and may operate such railways when approved by three-fifths of those voting; or the city may include in a franchise granted, the right to take over the system upon specified terms. A municipality may also transfer privileges acquired in one company to another, tho any lease of public property for longer than five years must be sanctioned by popular vote. In the case of municipal operation the charges must be sufficient to cover the cost of maintenance, interest charges, and to create a sinking fund.

By a two-thirds vote, a city may issue bonds for the purchase, or the construction and equipment of street railways; or may acquire the same by condemnation. In the latter case, compensation must be allowed for the value of existing franchises. If the system is owned by the city and leased to a private corporation, the rental must include at least interest upon the investment and a return for the franchise value.

By a majority vote, the municipality may in lieu of bonds, issue street railway certificates running for not to exceed twenty years, payable only from the net income of the railway, and bearing interest at a rate not specified. These certificates may be secured by the issue of mortgage or trust bonds, which can be foreclosed after default of interest for one year. Foreclosure carries the privilege of operation by the private company for not exceeding twenty years. Under the Mueller Law, it was provided that

<sup>19</sup>*Rev. Stat.* (1908) ch. 24, par. 655 *et seq.*; *Laws of 1903*, p. 285.



loans secured by mortgage certificates could be issued outside of the debt limit; but the supreme court has held that this may not be done under the present constitution.

Should the city operate a street railway system, there must be kept separate accounts showing the actual cost to the city, cost of maintenance, extensions and improvements, operating expenses of every description, sinking fund, free water, and free services rendered by the railway, interest, depreciation, insurance and exemption of taxes, of which an annual printed account, examined by an expert accountant, is required to be made to the city council. The accounting of these various items presages the time when city utilities will be conducted separately and distinctly from one another, and independently of the city treasury; and when any surplus created will be devoted to the use of the consumers who have produced it. The rule which forbids cities engaging in private business for a profit, should enjoin their engaging in public enterprises for the same purpose.<sup>20</sup>

#### SEWERS.

Sewer systems may be constructed under an act of 1883 permitting the levying of a three mill tax for that purpose,<sup>21</sup> or they may be created under the local improvement law which permits them to be paid for by special assessments or general taxation.<sup>22</sup> There is no city in which a revenue is derived from the operation of sewers; and the method of extending the systems has been considered under the subject of "Special Assessments".<sup>23</sup>

#### REAL ESTATE.

Cities owning landings on navigable rivers may lease portions for wharfage for a period not exceeding twenty-

<sup>20</sup>See ch. IV for tax on franchises.

<sup>21</sup>*Rev. Stat.* (1908) ch. 24, par. 280.

<sup>22</sup>*Ibid.* ch. 24, par. 507 *et seq.*

<sup>23</sup>See chap. IV.

five years.<sup>24</sup> Quincy has four such leases,—one terminable by either party upon sixty days notice; one to expire in 1912; and two to expire in 1934. The income from the entire number is \$320 per year. Rock Island also has \$200 per year income of a similar nature.

Several other cities receive a small revenue from the lease for space in municipal buildings, pasturage on land used for garbage disposal, etc. A list of these with the source of the income is given below:

TABLE 27.

## RECEIPTS FROM CITY REAL ESTATE.

Alton .....	\$167.	Ground rent.
Aurora .....	375.	Office rent and use of polling places.
Champaign .....	265.	Building rent.
Elgin .....	189.	"Rents, etc."
Freeport .....	184.	"Use of polling places."
Galesburg .....	231.	Alley, land, and pasture rent.
Moline .....	250.	"Use of city real estate".
Rock Island .....	1530.	Rents and ground leased to railway.
Springfield .....	540.	"Use of city real estate".
Urbana .....	52.	Pasturage.

Such small returns from city property might be contrasted with the large revenues from the public domains of some European cities where the management of real estate is often an important corporate function.

## OTHER CITY PROPERTY.

Aside from the interest on city funds, a small income is derived from the occasional use of other city property. Cities may own and operate bridges and ferries,<sup>25</sup> charging a sufficient toll to cover interest, repairs, sinking fund and operating expenses. In Ottawa the ferry tolls amount to \$3248 per year, while the city of Rock Island received until 1908 about \$4000 per annum from bridge tolls. The bridge is now free. An obsolete provision of the statutes

<sup>24</sup>*Rev. Stat.* (1908) ch. 24, par. 247.

<sup>25</sup>*Ibid.* ch. 24, par. 194.

permits cities coming into the possession of toll roads to continue to collect a reasonable toll, tho no new toll roads may be created.

More frequent sources of revenue of this sort are from public markets (scale fees), use of ambulances and of city machinery. The following cities report incomes of this nature: Alton, \$810, city scales; Aurora, \$204, use of ambulance; Belleville, \$480, use of city machinery; Bloomington, \$300, from McLean County for tramp house; Joliet, \$84, use of steam roller; LaSalle, \$112, "use of city property"; Moline, \$112, use of city scales; and Streator, \$18, for ambulance hire. Doubtless most cities have items of this nature, but have reported them as miscellaneous receipts. Those given are sufficient to show the amounts and nature of this income.

#### INTEREST ON CITY FUNDS.

Interest on city funds is an almost unutilized source of city income, as a rule such revenue being considered as a perquisite of the city treasurer. The few cities having permanent funds usually receive interest at some rate, but the amount lost thru failure to receive interest upon current funds is large. Such funds, however, vary in amount, and their size is reduced by the gradual payments of tax warrants and floating indebtedness.

In Chicago, bids are made upon the city funds and the council awards to the highest and best bidders in sufficient numbers to insure safety,—bonds being given by the banks as security.<sup>26</sup> A special scheme is adopted by which each bank is checked against for only two months in the year thus permitting an uninterrupted use of city funds for at least five months. But by this plan only one and one-half percent per annum is secured. Any law relative to the smaller cities of the state should be sufficiently comprehensive to permit the cities to borrow money for corporate purposes from such permanent funds as may be available,—

<sup>26</sup>Merriam, *Municipal Revenues of Chicago*, p. 103 et seq.

from sinking funds, water funds, permanent improvement funds, etc.<sup>27</sup> Such a move would secure five or six percent upon these permanent funds, the present rate being about three percent. Or if only the varying current funds are available, arrangements might be made with banks, by allowing the free use of city funds during the early part of the calendar year, the municipality might borrow without interest when the treasury is depleted. In Elgin, by such a plan an average of \$25,000 is borrowed each year.

Of the twenty-four cities, only seven receive interest upon funds of any kind, the largest amount being \$16,306, which is returned to Quincy upon sinking funds aggregating \$354,789. This is at a rate of about four and one-half percent. Five percent is received upon the larger part of this fund. All the interest accruing is reapplied to the sinking funds. On May 1st, 1909, there was a general balance of \$71,037 upon which no interest was noted. Evanston received \$3063 as "interest on city funds" the same being applied to the salary fund. Freeport received \$1916 as "interest on bank balances." On April 1st, 1910, such balances were \$67,534 for special assessments, plus \$13,270 for general cash on hand. As "interest on sinking funds", Galesburg received \$1667 per year. As interest upon a "special bridge fund" balance of \$57,101, Peoria added to that fund \$1,001 during 1909; the interest upon a "bridge bond sinking fund" of \$8750 was \$417. As the total income of the city for the year is nearly a million dollars the interest return is inconsiderable. In Alton the city finances are in such excellent shape that the city was able to loan \$30,000 of the general fund at three percent interest. In the above list, however, it will be noted that the return from interest on current funds is inconspicuous.

The following table represents an estimate of the normal amount of funds which lie idle in the city treasuries. There is shown the entire amount received during the year for all purposes, as well as the balance on hand at the beginning and at the end of the fiscal years.

<sup>27</sup>Cf. Laws of 1911, p. 150.



TABLE 28.

BALANCES AND RECEIPTS FOR GENERAL FUNDS, SPECIAL ASSESSMENTS AND SPECIAL FUNDS FOR THE YEAR 1909.

*General Funds.<sup>1</sup>*

	Balance at beginning of fiscal year.	Receipts, 1909.	Balance at end of year.
Alton .....	\$14,286	\$214,377	\$69,391 <sup>2</sup>
Aurora .....	23,750	220,334	18,870
Belleville .....	1,764	137,824	4,133 <sup>2</sup>
Bloomington .....	21,461	265,723	19,440
Danville .....	75,843	211,193	68,190 <sup>2</sup>
Evanston .....	115,412	461,875	96,576
Freeport .....	6,368	111,696	13,270
Joliet .....	55,062	451,238	80,090
Ottawa .....	43,395	134,754	1,365
Peoria .....	14,024	576,694	21,942
Quincy .....	71,604	217,292	67,346
Rockford .....	17,223	494,475	21,125 <sup>2</sup>
Rock Island .....	6,775	118,673	10,668 <sup>3</sup>
Urbana .....	5,718	85,059	276 <sup>2</sup>

*Special Assessments.<sup>1</sup>*

Aurora .....	see above	\$146,000	see above
Bloomington .....	\$38,072	115,397	\$69,333
Evanston .....	see above	126,180	7,288
Freeport .....	82,230	98,414	67,534
Ottawa .....	13,644	43,269	23,920
Peoria .....	2,006	315,693	385
Quincy .....	1,632	27,009	6,597
Rock Island .....	4,520	14,491	7,097

*Special Funds.<sup>1</sup>*

Aurora .....	see above	\$69,273	see above
Bloomington .....	\$7,392	722	\$1,350
Joliet .....	78	25,574	15,552
Peoria .....	66,431	12,113	20,603
Quincy .....	354,789	16,304	371,093
Rock Island .....	24,831	63,922	24,511

*Grand Totals.<sup>1</sup>*

Alton .....	\$14,286	\$214,337	\$69,391
Aurora .....	23,750	435,607	18,870
Belleville .....	1,764	137,824	4,133

<sup>1</sup>Amounts of less than one dollar not considered.<sup>2</sup>Includes all funds.<sup>3</sup>Fiscal year, 1907.

TABLE 28.—Continued.

## BALANCES AND RECEIPTS FOR GENERAL FUNDS, SPECIAL ASSESSMENTS AND SPECIAL FUNDS FOR THE YEAR 1909.

	Balance at beginning of fiscal year.	Receipts, 1909.	Balance at end of year.
Bloomington .....	66,925	381,842	90,223
Danville .....	75,843	211,193	68,540
Evanston .....	115,412	588,055	103,854
Freeport .....	88,598	210,110	80,804
Joliet .....	55,140	476,812	95,642
Ottawa .....	57,059	178,023	25,285
Peoria .....	82,461	904,500	42,930
Quincy .....	425,826	260,605	445,036
Rockford .....	17,223	494,474	21,125
Rock Island .....	36,106	197,086	42,276
Urbana .....	5,718	85,059	276

These figures do not show the maximum or minimum amounts in the treasuries, and no general rule concerning the average amounts can be formulated, since the conditions in each of the instances are radically different. In the sixteen cities<sup>28</sup> issuing tax warrants it must be assumed that the treasuries are practically empty for a part of the year, and it is safe to conclude that a share of the sums paid in as special assessments are almost immediately used to retire assessment bonds. Delinquent assessments would be an exception to this rule. Of taxes and licenses, which form the working balances of the cities, the former come in over a period of the five months from January to June, while the latter are paid quarterly or semi-annually.

Under the recent commission government law for cities, treasurers in such cities are compelled to return interest at three percent on city funds. A review of the workings of these cities at the end of the first fiscal year will give a more certain clue to the interest loss of the other cities of Illinois. Judging from the facts at hand, such loss is not less than \$500 in the smaller towns; increases to \$1000 in cities of very moderate size; and probably rises to \$5000 or more in the larger cities of the state.

<sup>28</sup>See Table 29.

TABLE 29. STATISTICS RELATIVE TO MUNICIPAL INDEBTEDNESS, ILLINOIS CITIES, 1909.

	Bonded Debt	Tax Warrants	Floating Debt	Total Indebtedness	Per Capita Bonded Debt	Per Capita Total Debt	Interest Rate Bonded Debt	Interest Rate Tax Warrants	Percent of Debt Bonded	Bonded Debt Relative to Assessment	Interest on Bonds	Interest on Warrants	Total Interest	Per Capita Interest
Alton .....	\$108,000	none	none	\$108,000	\$ 6.27	\$ 6.27	4%	—	100%	2.5%	\$ 4,360	none	\$ 4,360	\$ .25
Aurora .....	220,000	none	none	220,000	7.36	7.36	4-5	—	100	2.55	9,198	none	9,198	.31
Belleville ...	104,000	\$ 22,313	no data	126,313	4.92?	4.92?	4-6	5%	76?	2.33	4,140	\$ 980	5,120	.19
Bloomington	431,000	52,681 <sup>1</sup>	none	483,681	16.72	18.72	4	5	89	5.20	17,440	1,000 <sup>7</sup>	18,440	.71
Champaign ..	94,500	10,000	\$ 20,000 <sup>4</sup>	124,500	7.60	10.02	5	5	76	2.60	4,120	125	4,245	.34
Danville ....	207,300	75,844	none	283,144	7.44	10.15	4 1/2-5	5	73	2.50	9,800	2,724	12,524	.45
E. St. Louis..	725,000	no data	no data	725,000?	12.38?	12.38?	4 1/2	no data	?	5.50	51,341	no data	51,341	.75
Elgin .....	265,000	25,000	none	290,000	10.20	11.16	4	5	91	3.10	10,550	325 <sup>7</sup>	10,875	.42
Evanston ...	131,600	none	none	131,600	5.26	5.26	4-5	—	100	no data	5,700	none	5,700	.23
Freeport ....	141,000	45,000	none	186,000	8.02	10.60	4-4 1/2-5	5	76	no data	5,410	1,449	7,859	.45
Galesburg ...	139,000	37,000	none	176,000	6.24	7.96	4 1/2	5	79	2.20	5,525	900 <sup>8</sup>	7,425	.32
Jacksonville ..	157,500	38,438	11,807	195,938	10.27	12.77	4	4 1/4-6	80	3.80	6,300	2,246	8,546	.55
Joliet .....	177,800	79,216	15,433	273,449	5.12	7.88	4-4 1/2	5-6	64	2.50	8,011	4,044	12,055	.34
LaSalle .....	45,000	none	none	45,000	3.90	3.90	5	—	100	2.40	2,250	none	2,250	.23
Moline .....	83,000	none	none	83,000	3.43	3.43	4 1/2	—	100	1.45	4,840	none	4,840	.20
Ottawa .....	125,000	31,545	none	156,545	13.10	16.41	5-6	5	80	5.20	6,372	700 <sup>8</sup>	7,072	.64
Peoria .....	382,500	178,800 <sup>3</sup>	60,000 <sup>3</sup>	621,300	5.71	9.28	4-4 1/2	6	61	1.95	16,154	7,337	23,491	.35
Quincy .....	613,000	none	none	613,000	16.75	16.75	4-4 1/2	—	100	10.00	27,295	none	27,295	.75
Rockford ...	381,800	348,000 <sup>2</sup>	none	729,800	8.33	15.93?	4	5	52	2.20	15,472	12,854	28,326	.62
Rock Island ..	190,000	65,000	none	255,000	7.81	9.25	4 1/2-5	6	73	3.30	8,750	3,397	12,147	.47
Springfield ..	861,200	172,542	90,000	1,123,742	16.66	21.74	3 1/2-4-5	5 1/2-6	76	5.30	22,300	4,500	26,800	.52
Streator .....	40,000	20,000	none	60,000	2.80	4.21	5	5	67	1.50	2,000	202	2,202	.14
Urbana .....	73,000	32,722	3,620	109,342	8.85	13.25	5	5	67	3.50	3,650	1,699	5,349	.65

## CHAPTER VI

### LOANS.

Municipal indebtedness is of four kinds,—(1) city bonds, for the payment of which are pledged the faith and credit of the city; (2) interest bearing certificates issued in anticipation of the collection of taxes; (3) floating debt in the nature of unpaid bills, cash paid by individuals in advance for city services yet unrendered, such as water rents, advances on pavement construction, etc., and lastly, (4) public improvement bonds issued to contractors as payment for special assessment work in which the responsibility of the city extends only to the collection. This last item is discussed briefly in another place.<sup>1</sup>

#### BONDED INDEBTEDNESS.

By the state constitution the bonded indebtedness of cities is restricted to five percent of the assessed valuation,<sup>2</sup> which since 1909 has been one-third of the "fair cash value."<sup>3</sup> The constitution also provides that sufficient direct taxes must be raised to liquidate any bonded indebtedness within twenty years from the date of incur-

<sup>1</sup>See Chapter IV.

<sup>2</sup>Constitution of 1870, art. 9, par. 12.

<sup>3</sup>Laws of 1909, p. 308.

#### FOOTNOTES TO TABLE 29.

<sup>1</sup>\$12,681 not in the form of tax warrants.

<sup>2</sup>Includes \$200,000 school tax warrants.

<sup>3</sup>Includes \$78,800 school tax warrants.

<sup>4</sup>See Text, page 108.

<sup>5</sup>Itemized in year's expenditure as "bills payable".

<sup>6</sup>Predominating interest rates are italicised.

<sup>7</sup>Warrants carried for use of city funds.

<sup>8</sup>Estimated.



rence, and to pay the prescribed rate of interest.<sup>4</sup> It is further provided that bonds may be registered with the state auditor,<sup>5</sup> in which instance sufficient taxes to pay interest and provide a sinking fund are certified by the auditor to the several county clerks, such rates being collected as if a part of the state tax.

The necessity for the bonded debt limit may be seen by referring to Table 29. Four cities, Bloomington, East St. Louis, Ottawa, and Springfield, had slightly exceeded the maximum indebtedness allowed,<sup>6</sup> while Quincy was indebted to over ten percent of the equalized valuation and devotes twenty-seven percent of the total taxation to the payment of interest and the retirement of bonds. Four other cities had a debt of three percent, while the remainder were indebted to about one-half of their allowance. The average was three and four-tenths percent of the assessed valuation.

Such a comparison of indebtedness, based upon the property assessment, is the most equitable one, yet it is customary to consider the per capita indebtedness as some criterion of the financial condition of a city. According to the census bureau,<sup>7</sup> there is considerable irregularity in the per capita indebtedness of American cities of over 30,000 population, the tendency being to increase the indebtedness with the size of the city. This tendency is also shown in the smaller cities of Illinois, but not to a marked degree. In the municipalities of over 20,000 population the average per capita debt was \$11.005, while in those of a less size the average per capita debt was \$9.66. Or stated in another fashion,—the average population of the cities of Illinois having a per capita debt of over \$7.40 was 30,163; of those having such a debt under \$7.40 it was 18,919. In the cities of between 30,000 and 50,000 popula-

<sup>4</sup>Constitution of 1870, Art. 9, par. 12.

<sup>5</sup>Act of Feb. 13, 1865; amended April 27, 1877, and June 4, 1879.

<sup>6</sup>That there is an excess in these cases is probably due to school districts which are not exactly coextensive with the cities.

<sup>7</sup>Special Report, *Statistics of Cities*; 1907, p. 75.

tion in the United States, the average per capita net debt is a trifle over \$40.00.<sup>8</sup>

Bonds should, of course, be retired during the life time of the utility for which they are issued; and in the absence of exact data, the desirability of a fixed limit is easily demonstrated. Peoria is still paying interest on \$42,000 of bonds representing bounties paid during the Civil War. The interest has amounted to double this sum, yet as estimated by the comptroller, a sinking fund tax of \$2,800 per year collected for ten or twelve years would pay these bonds when due.<sup>9</sup>

That the amount of taxation necessary to retire city bonded indebtedness may not be excessive in any one year, the city of Quincy (which in 1881 was burdened with a debt of nearly \$2,000,000 and still has a debt of over \$600,000)<sup>10</sup> makes use of a plan which insures a bond and interest tax varying little in amount from year to year. An ordinance passed in 1899, a certified copy of which is on file in the office of the state auditor, outlines the amount to be collected each year, and provides that any surplus shall counteract later deficits. By this method, while the amount paid for bonds and interest each year varies as much as \$35,000, the taxation decreases regularly by about \$3,000. This is a rather crude use of a complicated scheme of debt retirement. The perfected plan would permit of an equal annual tax devoted in the early years to the paying of a large amount of interest and a small amount of principal, changing gradually to the larger retirement of principal as the amount of interest required declines. For example, \$20,000 indebtedness at 5% interest is incurred by a city, and a \$1,500 annual tax provided for liquidation. The principal for the second year is \$19,500 upon which

<sup>8</sup>*Supra. cit.* p. 307. This statement, however, represents only about 84% of the municipal indebtedness of the cities concerned. The remainder, except less than one percent of floating indebtedness, consists of tax warrants or short time loan certificates in anticipation of taxes.

<sup>9</sup>Annual report, 1909, p. 12.

<sup>10</sup>Annual report, 1910, p. 25.

the interest is \$975. Therefore, \$523 of the bonds may be retired as compared with \$500 the previous year. If the total of bonds may be retired only at the end of a stated period careful actuarial work is necessary to determine the proper tax levy. Although this plan insures absolute justice to the taxpayers, the difficulty of its administration has prompted cities to turn to other methods of liquidating indebtedness, one of which is the sinking fund.

A sinking fund provides that sufficient sums shall be set aside from year to year, so that at the end of a pre-arranged period a sufficient sum shall be in the treasury to retire the bond issue outstanding. The fixed amounts to be set aside each year, dependent upon the rate of interest received upon the sinking fund, and the life of the bonds to be retired, have been carefully calculated, and the tables should be available for the use of the city comptroller.<sup>11</sup> The sinking fund method of debt retirement equalizes the burden of the taxpayer, but is open to very decided dangers. Unless compound interest is paid upon the sinking fund the method is an extravagant one; the taxpayer not only pays the interest upon the bonds outstanding, but also loses the interest upon the cash contributed to the retirement fund. Also, owing frequently to the lack of publicity for municipal accounts, sinking funds are used for general municipal purposes.

It is not uncommon for cities to invest sinking funds in their own securities. From this arises a danger, especially in larger cities or in other communities dependent upon local capital for funds. If a city is required to throw a large quantity of sinking fund securities into the market in order to retire bonds of an earlier maturing date, the disturbance to the financial market may be serious. New York City, in the decade from 1950 to 1960, will be compelled to put approximately \$200,000,000 of such sinking

<sup>11</sup>An excellent set of tables will be found in Sprague's *Tables of Compound Interest, Discount, Annuities, Sinking Funds and other Computations for use in the Accountancy of Investment*, published by the author for the New York University School of Commerce, Accounts and Finance.

fund securities before New York bankers. This is perhaps a "far cry" to be urged for consideration in the smaller cities of the nation.

The difficulties suggested have prompted municipalities to resort to the use of the simpler, but less equitable, plan of bonds retiring serially over a series of years. The bulk of the interest is borne by the tax payers in the earlier years; but they have the compensating advantage of using the utility created while it is new. Practically all of the Illinois municipal bonds are of this serial type.

#### TAX WARRANTS.

Tax warrant indebtedness is incurred entirely for current expenses, and represents how far the expenditures have at some time exceeded the income of the city. Table 29 shows that the cities which are already heavily bonded are, with few exceptions, also issuing a large amount of tax warrants, though the less indebted cities are by no means free.

Such indebtedness is bad, not only because it represents municipal extravagance, but owing to the excessive rate of interest which it bears. The funds for the most part are furnished by banks, the preponderating rate of interest being five percent, though as low as 4.74% was charged in Jacksonville, and as high as six percent in Springfield and Peoria. Elgin, by allowing the free use of city funds to banks, has been allowed to borrow \$25,000 annually from them practically free of interest. The rates charged are from one to two percent higher than those on municipal bonds, of which 46.6% are floated at 4% ; 27.1% at 4.5% ; 14.2% at 5% ; 8.2% at 3.5% ; and .075% at the high rate of 6% . About 82% of the bonds outstanding are floated at 4.5% or below ; while only \$11,000 in warrants are drawing less than 5% , and these are at 4.75% .

Before 1911 there was no statute which allowed a city to invest the money of its special funds in warrants or certificates drawn against the general fund. Such a law secures to the municipal corporations the high rate of in-



terest paid on temporary indebtedness, and is desirable, even though affecting only a limited number of the smaller cities of the state.

Under the circumstances mentioned, the question naturally arises,—would it not be expedient to relieve the necessity for the annual issue of tax warrants by the floating of a bond issue at a lower rate of interest? There are at least three reasonable arguments against such a process. In some cities the maximum debt limit has already been reached, so these new bonds could not be legally issued. Again, the presence of a large indebtedness of a temporary nature is a guarantee against further marked extravagance on the part of the city officials. That the total indebtedness must be kept within such bounds that loans may be easily made prevents its growth out of the proportion to the wealth of the city. Finally, the discrepancy between the rates of interest on bonds and warrants is more apparent than real.

Tax warrants represent the need of an amount of money for a short time, since they are usually issued in the winter and are retired as soon as the taxes are paid in the spring or early summer. Though the average life of a warrant is seven months, there are reasons for believing that the greater amounts of money are used for a less time than this. For example, Bloomington, Galesburg, and Springfield, all of which are heavy users of tax warrants, pay interest for five months or less. In order to have a sufficient sum on hand it would be necessary to issue bonds to approximate the amounts of warrants out, sums which, according to the most conservative estimates, would lie in the city treasuries for five months in the year. On such a basis, the cities would not be the losers, if they pay five-twelfths more for warrants than bonds. If four and four and one-half percent be taken as the typical bond rate of interest, then it would be profitable to float warrants at 5.6% or 6.3%. Of course, in cases where the warrants are running for year terms, as are \$200,000 of Rockford school warrants, funding would be expedient.

In Galesburg, while school tax warrants are not issued, the salary warrants of the fiscal year, are drawn upon an empty treasury and bear interest at six percent.

#### FLOATING DEBT.

No defense can be offered for floating indebtedness. It is in all cases but one (see table 29) connected with large bonded and warrant indebtedness; and one is entitled to assume that there has been at some time mismanagement in the conduct of the business of the cities so burdened. Such indebtedness emphasizes most strongly the need for scientific budget making in municipal business. Every departmental head should be required to estimate in advance—and in detail—the needs for the year's administration. Such executives should then be required to spend the sums appropriated according to the advance estimate, or return any unexpended balances into the general fund of the municipality.

Any city working without a classified budget is as liable to suffer from unexpended departmental balances as from floating indebtedness. The two are products of the same cause,—a poorly drawn budget. To the ordinary voter and taxpayer a deficit becomes known through the newspaper; the use of unexpended balances is not so easy to discover. The curious citizen may be prompted to inquire of his city clerk for a statement of monthly expenditures of the several departments for the past fiscal year. He will be interested to note if there is a marked increase in departmental expenditures in October and March,—more especially for salaries. If services were unnecessary ten months in the year, there should be some explanation if the payrolls are excessively large in the two months which immediately precede elections. And, if this explanation is honest, it will frequently demonstrate why departmental heads have not sufficient funds to complete the fiscal year.

The indirect effect of a floating debt is even greater than the loss of the cash which at some time has been

wasted. When dealers are compelled to wait an undue period for the payment of bills, the city business drifts into the hands of middlemen. These make all proper allowance in their prices for long waits, and the city treasury suffers proportionately.

In Champaign, the \$20,000 of floating debt represented an unpaid light bill of nearly six months standing; while \$20,000 of Urbana bonds in 1909 were a judgment for floating debt on current expenses. It may be advanced that owing to unexpected decreases in revenues, debts of this kind must occasionally be incurred. This is perhaps sometimes true; but such losses could be anticipated and more adequately met if city finances were put upon the same sound basis that is demanded in the best private business.

The elimination of unsecured indebtedness by this means, as well as the promotion of efficiency in public expenditures, would be secured if the more elementary steps necessary to scientific public budget making were followed:

1. The finance committee of the city council should require every department head to submit an estimate of proposed expenditures for the coming fiscal year.

2. This estimate should show all suggested expenditures classified by salaries, wages, services other than personal, materials, supplies, equipment, structure and parts, land, capital outlays, fixed charges, pensions and contingencies.<sup>12</sup> Such a division would enable city officials to know the cost of a single service or supply for the entire city, or to compare costs as between departments.

3. The departmental estimate should also show the departmental expenditure for the same services, etc., for the year previous, the expenditure of the past six months of the current year, the expenditure of some typical month of the current year, and any increase asked for next year.

<sup>12</sup>The complete classification as suggested for the United States government by the President's Commission on Economy and Efficiency may be seen on page 4 of their circular No. 19, to be obtained through any congressman, or the similar classification of New York and Philadelphia can be secured by corresponding with the comptroller of these cities.

4. Such estimates should be printed in a tentative budget, and public hearings held where both officials and citizens could appear to defend or protest against suggested appropriations.

5. The final revised budget having been passed, every departmental head should be required to regulate his expenditures as outlined, all salaries and wages to be expended at the rate of one-twelfth or one-fiftysecond per month or week, except for temporary employes.

6. Any change in the segregation of the budget should be made only after a vote of the city council.

7. All unexpended balances at the end of the fiscal year should be returned to the treasury of the city.

Such an outlined plan is not experimental but is in operation in the largest cities of the country. Not only are appropriations more efficiently expended, but they are considerably reduced when granted after public hearings. In a single year in New York City, surplus appropriations of \$3,000,000 were returned to the municipal treasury, which, under the system in vogue in Illinois municipalities, would perhaps have gone to salary increases and work not contemplated or advertised at budget time.



## CHAPTER VII

### SUMMARY AND CONCLUSIONS.

In the preceding text repeated comparisons have been drawn between the important items of revenue income of the several cities, especially upon a per capita basis. It is unnecessary to review these here, aside from stating the conclusions which they substantiate. The total general revenue, however, should be considered. This general revenue account will exclude the more uncertain and unstable items of school revenue, road and bridge taxes, special assessments, and commercial revenue which is not net profit. The deduction of these items, all of which fail to affect directly the general administration of municipal government, leaves a balance devoted entirely to the support of the cities. This residual general fund for each city is given in table 30, with the principal component parts. In table 31 is shown the data in percentages.

The minimum per capita income is \$4.23. This is found in Champaign, one of the smallest of the cities studied. Similarly low per capita revenue of \$4.53 and \$4.40 prevails in Streator and Jacksonville, both small cities; while the largest per capita revenue, \$11.74, is in East St. Louis, the largest municipality considered. Such figures indicate that there is a relationship between the size of the city and the necessity for increased income per inhabitant. This fact, with its causes, has been commented upon in the introduction to this study. It is not to be expected, however, that this rise in per capita income will be regularly progressive as population increases. Two of the smallest municipalities, LaSalle and Ottawa, have a per capita revenue only equaled by five of the largest cities of the group; while Rockford and Decatur, both among the larger communities studied, have about the minimum cost of government per resident. Setting aside

the possibility of mismanagement of city funds, this may mean that these smaller cities have assumed costly civic functions, which the larger municipalities have not as yet seen fit to undertake.

Considering the twenty-four cities as a group, the earlier contention that with increasing population the municipalities must undertake activities formerly left to individuals, is amply borne out. Of the six largest cities in the list, five have a large per capita revenue, and only four municipalities of between seventeen and seventy-five thousand population have an income of less than \$6.00 per person. The summary table No. 32 shows graphically the relative rank of all the cities as regards population and per capita general income.

A summary of the conclusions which have been discussed in the text indicates the defects in the system of property taxation and the nature of other undeveloped sources of income, which it has been in part the purpose of this thesis to consider:—

1. There is a wide diversity among the municipalities of the state in the rate of assessments of both real and personal property. In few communities is real estate taxed at its full cash value, while personal property escapes with from one-fifth to one-third of its legal burden. Undoubtedly this latter discrepancy is only an unofficial recognition of the unfair double taxation inherent in the assessment of most personal property. Without entering into a discussion of justice in taxation, it may be said that a careful readjustment of personalty values would add as much as 30% to municipal incomes.

2. The continuation of two officials for the collection of municipal taxes,—one before and one after taxes become delinquent,—involves an unnecessary duplication of administrative machinery and results in loss of efficiency and increased costs. If the functions of the town collector were transferred to the county treasurer, taxes could be collected more expeditiously, more completely and at a diminished expense.

3. Practically every city is collecting the maximum legal tax allowed for general purposes, yet there is an increasing demand that the municipalities assume new and expensive duties. The maximum total tax rate of three percent on the assessed valuation (one percent on the supposed full value) is inadequate to meet the needs of the modern city.

4. The percentage of total income received by Illinois cities from other sources than the general property tax ranges from 60% in Joliet to 3% in Urbana. The large proportion of municipal funds derived from these miscellaneous sources in certain cities indicates the inadequacy of the present system of taxation.

5. The amount of municipal income derived from liquor licenses, does not depend upon the number of licenses issued, but with considerable uniformity varies directly with the cost of the license. An increase in the minimum cost of saloon licenses from \$500 to \$1,000 per year would not only result in the issue of fewer licenses, but would be accompanied by a decided increase in revenues. Also, of no inconsiderable importance is the reduction in police force which may follow a limitation in the number of saloons and their segregation into a restricted district.

6. In cities where there is a real restriction in the number of saloons in proportion to the population, the licenses normally acquire a monopoly value. The amount of this monopoly value has been estimated for several cities under consideration. Since the municipalities have reduced the number of existing licenses they should proportionately increase the charge to cover any loss in revenue. A premium on saloon licenses is a criterion of such a loss.

7. Municipal revenues from general license taxation would be increased by assessing high licenses against a few industries and occupations which are accustomed to license taxation. In numerous instances the present rates are unprofitably low, and the energy necessary for a complete collection of the tax is dissipated over a wide field. It is

not infrequent that licenses fail to yield revenue because the licensing ordinances are too intricate to be easily applied by the crude machinery provided for that purpose.

8. Cities which largely utilize special business taxes find in them a remunerative source of revenue. In view of the usual under-assessment of stocks-in-trade, doubtless some tax of this nature is justified. Such taxes, however, are difficult to administer with any degree of equality, and there is usually local prejudice against their imposition. A trend in this direction must be gradual, beginning with those occupations which require some measure of sanitary or police control.

9. One of the most profitable and equitable of tax returns is that from the licensing of vehicles. This tax, going into a special fund for the repair of streets and alleys, relieves to some extent, the unequal burden imposed by the special assessment laws upon the property owner. The rates upon horse drawn vehicles are by no means uniform throughout the state and where the minimum tax is imposed, the return is not large. The tax upon automobiles, however, can be made to return a very considerable income.

10. Insurance brokers frequently avoid the payment of the tax upon the business of foreign fire insurance companies and in some municipalities the law is not enforced at all. This would be avoided if a nominal license fee were imposed upon all insurance dealers and they were compelled to render an annual report, under oath, of all business transacted.

11. Revenues from fines and costs are restricted by the frequent non-assessment of fines if costs are paid, by failure to assess high fines, inclination to allow cases to be prosecuted by the state's attorney, rather than by the city officials, and finally the limited number of arrests which find their way into the police courts.

12. Fees and departmental charges are neglected sources of municipal revenue, which, were they adequately imposed and collected, would produce an income equal to



that obtained from general license taxes. A complete fee system, however, would involve not only the abolition of the practice of allowing fees as salaries, but the introduction of an adequate system of accounting and control which would insure cities receiving payments made.

13. Under the present prevailing system in Illinois by which public service corporations are usually allowed to fix their charges at the point of maximum profit, franchise taxes are a tax upon the profits of the corporation rather than upon the consumer. However, only a few utilities pay for the privileges they enjoy, and these only small sums. A considerable number of franchises will expire in the near future permitting cities to make provision for franchise payments. These costs may be imposed either as a percentage of the net or gross annual receipts or as an initial charge for the right to continue in business, or both.

However, the number of perpetual franchises, especially in the gas and telephone industries argue in favor of some form of legislative control over the prices demanded for these services. Should this regulation of commodity charges be brought about, any tax imposed by the city upon public service corporations would probably become a burden upon the consumer. The conditions require the careful and honest consideration of city councils and of the state legislature.

14. In the operation of municipal water plants, three cities apparently show a distinct surplus over all charges and three other cities make a satisfactory financial record; while seven cities have a high percentage of operating expenses, in two of them the operating expenses exceeding the total revenue. In a few cities the water rates are too high; but in most they are too low to meet operating expenses, thus burdening the tax payer at the expense of the water consumer. Estimates for six municipal lighting plants indicate that three have furnished street lighting at a cost less than the charges of private corporations. Were the municipalities authorized to do commercial as

well as public lighting, the costs would probably be further reduced.

15. Publicly owned cemeteries have been conducted at a financial loss, but the sums involved are so small as not to demand serious consideration.

16. The income from real property owned by the municipalities is an inconsiderable part of the budgets, and is not an adequate return upon the value of the property involved.

17. None of the cities investigated received a sufficient return in the form of interest upon the cash balances in their treasuries; most of the cities received no interest whatsoever upon these funds. The annual loss is very considerable, and should be prevented by a statute requiring city treasurers to account for a return upon public funds in their possession.

18. Considerable sums are spent by municipalities as interest upon short time loans made in anticipation of taxes. The rates of interest are higher than those upon bonds but since the funds are needed for only a few months, it is more expedient to pay a higher price for short time loans than to issue bonds. In some instances, however, debts of this nature might well be funded. A yet more profitable plan would be for cities to borrow from their special funds, which will insure a much higher rate of interest on these than is at present received.

19. The keeping of city accounts upon a receipt and expense basis rather than by revenues and liabilities works to the continual detriment of administrative efficiency. Budgets are made up on crude estimates of city receipts, and not upon the more correct basis of amounts legally accruing to the municipality over a designated period. This system of accounting not only prevents interested citizens or officials from learning the exact financial status of the corporation, but enables executives to thrust the burden of extravagance or dishonesty upon following administrations.

20. Less than one-half of the cities included in this study publish annual reports of their financial affairs, and in those published there is a marked lack of uniformity as regards date of appearance, matter contained, method of presentation and value to the public. There is urgent need of some private or public body which will cooperate with municipal officials in applying tests of efficiency to city government, and making the results known through uniform city reports.

TABLE 30. SOURCES AND TOTALS OF GENERAL REVENUES, 1909.

	General Property Taxes	Liquor Licenses	Other Licenses	Wheel Tax	Foreign Fire Insur- ance Tax	Police Fines	Fees	Franchise Taxes	Interest	Library	Other Revenues	Total General Revenues	Per Capita Income 1909
Alton .....	\$30,350	\$30,694	\$5,489	\$516	\$1,488	\$1,557	none	\$221	\$900	\$2,653	\$232	\$104,200	\$5.94
Aurora .....	143,266	42,500	3,340	none	1,636	1,976	none	4,937	none	396	8,340	205,491	6.89
Belleville ...	78,520	55,691	4,581	483	622	560	\$1,037	1,103	none	128	1,171	143,896	6.81
Bloomington.	109,710	47,900	4,649	none	1,093	1,702	\$2,412	3,400	none	1,450	5,901	178,226	6.91
Champaign ..	48,423	none	1,994	none	1,124	7,041	221	none	none	753	none	52,515	4.23
Danville .....	102,130	66,600	4,045	none	1,675	7,041	363	none	none	800	74	182,728	6.55
Decatur .....	125,038	none	3,191	none	3,102	5,391	166	none	none	358	12,088	149,334	4.80
E. St. Louis.	488,029	155,410	24,399	7,169	1,200	1,219	3,493	1,600	none	268	2,325	686,112	11.74
Elgin .....	111,869	34,000	3,114	none	1,121	683	178	612	none	5,294	5,294	156,871	6.03
Evansston ...	134,339	none	5,510	8,065	1,471	3,293	3,575	none	3,063	1,739	45,270	206,325	8.26
Freeport .....	66,960	23,703	1,457	none	1,661	4,433	none	none	1,916	97	7,798	107,425	6.11
Galesburg ...	123,236	none	2,529	none	1,579	3,102	110	none	1,667	891	1,205	134,319	6.08
Jacksonville.	57,866	none	876	2,368	1,348	1,836	45	none	none	436	2,535	67,410	4.40
Joliet .....	95,885	135,000	3,045	none	1,984	432	1,261	3,317	none	1,042	2,382	244,916	7.06
LaSalle .....	39,374	33,100	1,290	none	739	416	none	none	none	307	75,242	176,130	6.52
Moline .....	107,285	63,126	3,100	none	1,415	416	788	none	none	4,887	1,324	80,741	8.46
Ottawa .....	45,000	25,250	430	none	912	595	343	2,000	none	1,206	5,901	522,700	7.81
Peoria .....	347,100	137,300	12,000	none	7,366	5,683	4,010	500	16,306	114	91	339,209	9.28
Quincy .....	237,538	72,500	3,870	3,491	2,248	1,249	1,510	3,356	none	1,049	21,793	249,495	5.50
Rockford ...	214,204	none	4,056	none	1,838	3,364	1,414	none	none	517	517	165,288	6.79
Rock Island ..	166,401	48,025	3,672	none	1,729	5,890	2,022	300	none	517	30,872	458,646	8.80
Springfield ..	263,712	108,435	6,166	none	1,159	941	none	372	none	207	888	64,625	4.53
Streator .....	33,294	26,750	1,014	none	327	328	none	none	none	40	none	42,760	5.18
Urbana .....	41,669	none	405	none	327	328	none	none	none	40	none	42,760	5.18

\*Includes net profit on water works.



TABLE 31.  
SOURCES OF GENERAL REVENUE, 1909, IN PERCENTAGES.

	General Property Tax	Liquor License	Other Licenses	Wheel Tax	Foreign Insurance Tax	Police Fines	Fees	Franchise Taxes	Interest	Library	Other Revenues
Alton .....	57.8	29.4	5.3	.5	1.45	1.6	none	.21	.86	2.54	.22
Aurora ....	70.0	20.7	1.63	none	.79	.96	none	1.9	none	.19	4.6
Belleville ..	54.7	38.7	3.2	.33	.43	.39	.72	.77	none	.09	.81
Bloomington	61.5	27.8	2.6	none	.61	.95	1.35	1.9	none	.81	3.3
Champaign ..	92.	none	3.79	none	2.12		.42	none	none	1.46	none
Danville ...	56.	36.4	2.21	none	.91	3.85	.2	none	none	.44	.04
Decatur ...	83.7	none	2.1	none	2.08	3.6	.111	none	none	.24	8.1
E. St. Louis	71.	22.5	3.56	1.04	.175	.178	.51	.23	none	.039	.485
Elgin .....	71.4	21.7	1.98	none	.71	.438	.117	.39	none		3.38
Evanston ..	65.1	none	2.67	3.9	.7	1.59	1.73	none	1.48	.843	21.9
Freeport ...	62.2	22.	1.37	none	.99	4.12	none	none	1.78	.09	7.25
Galesburg ..	91.8	none	1.88	none	1.17	2.3	.082	none	1.24	.66	.895
Jacksonville.	85.8	none	1.32	3.51	2.1	2.73	.607	none	none	.648	3.86
Joliet .....	40.1	54.6	1.23	none	.813		.515	1.36	none	.425	.975
LaSalle ....	52.3	44.	1.71	none	.97	.573	none	none	none		.4
Moline ....	61.	35.8	1.75	none	.803	.236	.447	none	none		none
Ottawa ....	55.7	31.3	.533	none	1.13	.738	.425	2.48	none	6.05	1.64
Peoria .....	65.5	26.3	2.3	none	1.41	1.15	.771	.0957	.273	.23	1.12
Quincy ....	70.	21.4	1.145	1.03		1.21	none	.378	4.81	.0336	.027
Rockford ..	87.7	none	1.63	none	.9	.5	.66	1.34	none	.42	8.75
Rock Island	64.5	29.	2.22	none	1.11	2.03	.855	none	none		.346
Springfield	64.	23.7	1.35	none	.378	1.28	.44	.0655	none	.113	8.7
Streator ...	51.25	41.3	1.57	none	1.8	1.45	none	.575	none	.312	1.37
Urbana ....	97.6	none	.95	none	.77	.77	none	none	none	.0935	none

TABLE 32.  
RANKING OF TWENTY-FOUR ILLINOIS CITIES, 1909.

	Population	Total Per capita Assessment	Per capita Realty Assessment	Per capita Person- alty Assessment	General Tax Rate	Percent of General Income from Taxes	Per capita General Tax Income	Per capita Total General Income	Per capita Income Liquor Licenses	Population per Saloon
Peoria .....	1	6	4	14	8	11	7	6	9	14
E. St. Louis..	2	17	10	21	15	8	1	1	3	19
Springfield ..	3	4	3	7	7	14	3	3	8	9
Rockford ....	4	1	1	2	23	4	10	19	19	1
Quincy ..	5	21	22	19	1	9	2	2	10	13
Joliet .....	6	19	17	20	19	24	23	8	1	11
Decatur .....	7	14	14	13	10	6	15	21	15	4
Aurora .....	8	8	7	11	9	10	9	10	16	3
Danville .....	9	9	13	4	16	19	20	18	7	7
Elgin .....	10	2	9	1	21	7	11	15	17	2
Bloomington .	11	3	2	9	13	16	14	9	13	8
Evanston ....	12	—	—	—	—	12	5	5	—	—
Rock Island .	13	15	12	15	6	13	13	12	11	12
Moline .....	14	16	18	8	5	17	12	7	6	5
Galesburg ....	15	7	5	12	12	3	4	17	—	—
Belleville ....	16	18	16	16	11	21	18	11	5	18
Freeport .....	17	—	—	—	14	15	17	14	18	6
Alton .....	18	13	15	6	17	18	21	16	14	10
Jacksonville .	19	10	11	10	20	5	19	23	—	—
Streator .....	20	20	20	17	22	23	24	22	12	15
Champaign ..	21	5	6	5	19	2	16	24	—	—
LaSalle .....	22	22	21	21	2	22	22	13	2	10
Ottawa .....	23	12	19	3	4	20	6	4	4	17
Urbana .....	24	11	8	18	3	1	8	20	—	—

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## INDEX

- Accounting methods, municipal, 8, 115.  
Agricultural property exempt from tax, 14.  
Alton, 40, 41, 42, 50, 62, 90, 91, 96, 97.  
Amusement licenses, see licenses.  
Appleton, Wis., 82.  
Arrests, 49, 50, 51, 54.  
Assessments, 16, 19, 20, 23;  
    rate of, 111;  
    rank of cities, 119.  
Aurora, 22, 27, 40, 50, 51, 53, 57, 62, 67, 72, 81, 89, 96.  
Automobile licenses, see vehicle tax.  
  
Back taxes, 25.  
Bakery tax, 42.  
Beloit, Wis., 82.  
Belleville, 40, 41, 42, 61, 96.  
Billiard licenses, see licenses.  
Bloomington, 38, 41, 48, 52, 53, 59, 62, 70, 71, 81, 89, 96, 102, 106.  
Bonded debt, see debt.  
Brewer licenses, see licenses.  
Bridge tolls, 95.  
Broker's tax, see licenses.  
Budget making, 107, 108, 109.  
Bureau of the Census, 8.  
Business taxes, 10, 41, 42.  
  
Cab license, see licenses.  
Capital stock, taxation of, 15.  
Cemeteries, public, 89, 90, 115.  
Champaign, 18, 21, 89, 91, 108, 110.  
Champaign County, 21.  
Charges, departmental, see departmental charges.  
Chicago, 8, 12, 13, 30, 48, 96.  
Cigarette license, 40.  
City funds, 96-99; see also interest.  
City hospitals, 92.  
City property, 95, 115; see also real estate.  
Clearing house, municipal, need for, 10, 116.  
Coal dealer tax, 42, 43.  
Collection of taxes, losses in, 24.  
Commercial revenues, 58.  
County treasurers, collections by, 24.  
Cyclone tax, 13.



- Danville, 25, 38, 56, 71.
- Debt, 101-107.
- Decatur, 18, 29, 30, 41, 56, 71, 72, 78, 81, 110.
- Delinquent taxes, see taxes.
- Departmental fees and charges, 10, 58, 61, 113.
- Dog tax, 32, 33.
- East St. Louis, 13, 18, 21, 33, 40, 41, 42, 44, 46, 48, 50, 59, 61, 72, 81, 102, 110.
- Eau Claire, Wis., 82.
- Electric light, see Franchises and Lighting Plants.
- Elgin, 22, 29, 72, 84, 97, 106.
- Endowments, 56, 91.
- Evanston, 10, 18, 24, 38, 40, 43, 45, 51, 56, 57, 59, 70, 71, 78, 89.
- Exemptions from taxes, 14, 15.
- Expenditures, classified, need of, 108.
- Fees, 58, 59, 60, 113, 117, 118.
- Ferries, 95.
- Fines, police, see police fines;  
library, see library fines.
- Fire insurance tax, 32, 45, 46, 113, 117, 118.
- Firemen's relief fund, 32.
- Fireworks tax, 42.
- Floating debt, see debt.
- Fond du Lac, Wis., 82.
- Foreign fire insurance license, see fire insurance tax.
- Foundry license, see licenses.
- Franchises, 9, 10, 15, 62-68, 114.
- Franchise taxes, 61, 63, 117, 118.
- Freeport, 24, 38, 40, 47, 50, 71, 72, 97.
- Galesburg, 18, 35, 40, 71, 72, 89, 97, 106, 107.
- Gas Works, see franchise taxes.
- General funds, 98.
- General licenses, 117, 118;  
see also licenses.
- Gifts, grants and subventions, 55.
- Gifts by individuals, 57.
- Green Bay, Wis., 82.
- Grocery tax, 42, 43.
- Hay and grain dealer tax, 42, 43.
- Hospitals, see city hospitals.
- Hotel tax, 42.
- Hydrants, 79, 80, 81.

- Ice dealer tax, 42, 43.
- Income, city, 110, 117, 119.
- Inspections, income from, 58.
- Insurance funds, taxation of, 16.
- Insurance license, see fire insurance tax.
- Interest on public funds, 10, 13, 96, 97, 98, 99, 115, 117, 118.
- Interest on debt, rate of, 100.
- Interurban railways, see franchise taxes.
- Jacksonville, 18, 44, 50, 57, 89, 105, 110.
- Joliet, 8, 9, 17, 18, 38, 40, 43, 50, 62, 79, 81, 96, 112.
- Juul law, 12, 14.
- Kane County, 21.
- LaSalle, 18, 29, 41, 49, 50, 56, 70, 72, 79, 81, 96, 110.
- Libraries, 13, 18, 91, 117, 118.
- License cities, taxes in, 18.
- License districts, limitation of, 27, 28, 29.
- License revenue, 26.
- Licenses, general, 9, 30-42;
  - legality of, 26;
  - liquor, 9, 26-30, 34, 49, 112, 117, 118, 119.
- Lighting plants, 9, 10, 86, 87, 114.
- Liquor license, see licenses.
- Livery stable tax, 42.
- Loans, 101, 115.
- Losses in collection of taxes, 24.
- Lots, assessment of, 20.
- Lumber yard tax, 42, 43.
- Madison, Wis., 85.
- Mains, miles of, 80.
- McLean County, 96.
- Meat dealers' tax, 42, 43.
- Meters, water, use of, 84.
- Method of investigation, 7.
- Milk dealers' license, 39.
- Miscellaneous income, 57, 58, 61.
- Moline, 22, 41, 44, 48, 96.
- Motorcycle license, see vehicle tax.
- Municipal industries, 73; see also water plants, lighting plants, etc.
- Mueller law, 93.
- New York City, 104, 109.
- "No-license" cities, 18.

Omnibus license, see licenses.

Ottawa, 21, 30, 33, 35, 40, 41, 51, 67, 81, 90, 91, 92, 95, 102, 110.

Park districts, 13, 18.

Paving, free, 64.

Pawnbroker licenses, see licenses.

Peoria, 13, 30, 38, 40, 41, 43, 46, 51, 52, 53, 56, 59, 62, 70, 71, 72, 80, 103, 105.

Peddler licenses, see licenses.

Personal property, 9, 15, 20-22.

Pleasure drive districts, 14.

Police costs, 52.

Police fines, 9, 47, 48, 49, 51, 52, 54, 113, 117, 118.

Pool license, see licenses.

Prostitution, licensing of, forbidden, 32.

Property tax, theory of, 14.

Public libraries, see Libraries.

Public property, sale of, 58.

Quincy, 8, 18, 22, 39, 48, 51, 56, 61, 91, 95, 97, 102, 103.

Railroads, taxation of, 15, 20.

Railroad Commission of Wisconsin, 77, 86.

Real estate, taxation of, 20, 94, 95, 115.

Real estate broker tax, 42, 43.

Reports, lack of city, 116.

Restaurant tax, 42, 43.

Road and bridge tax, 24.

Rockford, 18, 25, 29, 30, 33, 35, 40, 41, 44, 46, 48, 52, 53, 57, 62, 71, 72, 75, 106, 110.

Rock Island, 22, 30, 35, 39, 40, 48, 95.

Sale of public property, 61.

Saloons, see licenses, liquor.

Sanitary districts, 14, 18.

School debt, see debt.

School tax, 13, 56.

Services, water, kind of, 80.

Service privileges, 61.

Sewers, 71, 94;

see also special assessments.

Sheboygan, Wis., 82.

Sinking funds, 13, 103, 104.

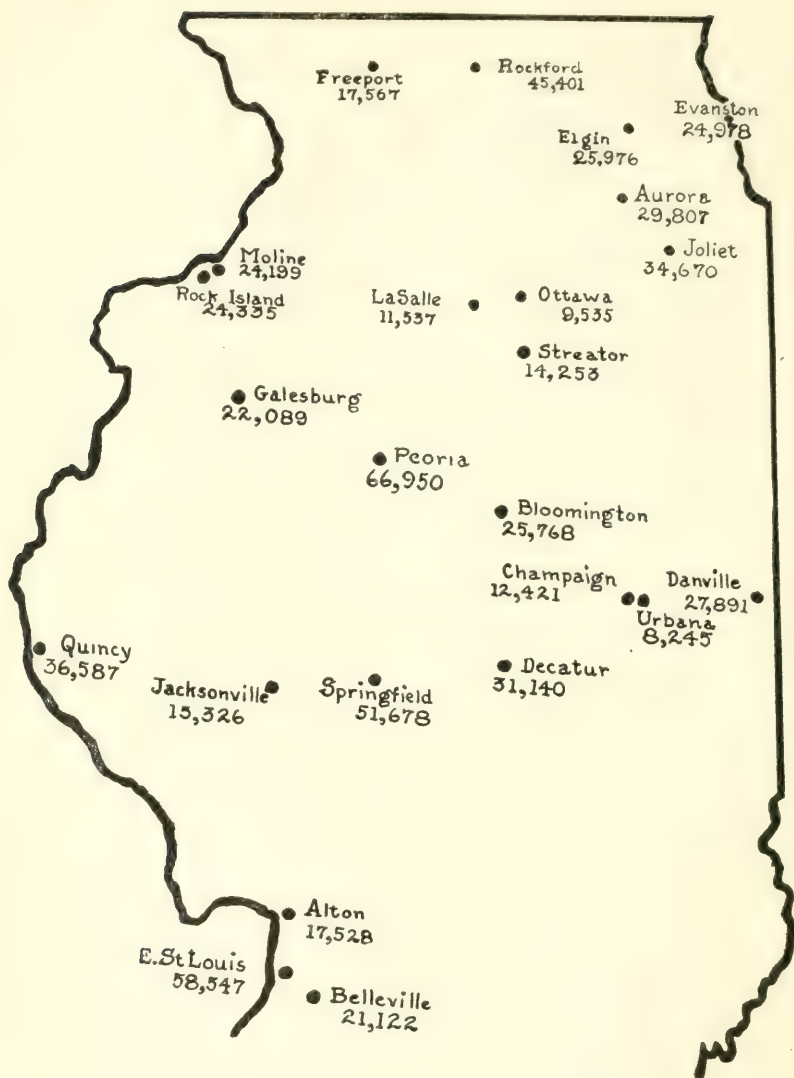
Special assessments, 68-72, 98.

Special funds, 98.

Springfield, 13, 30, 41, 43, 44, 50, 59, 62, 71, 72, 78, 79, 81, 84, 85, 102, 105, 106.

- State grants, 55, 56.  
Store goods dealers' tax, 42, 43.  
Streator, 17, 18, 27, 35, 52, 53, 56, 96, 110.  
Streets, see special assessments.  
Street car license, see licenses.  
Street lighting, see Lighting Plants.  
Street railways, municipal, 93, 94;  
    see also franchises.  
Subvention, see gifts.  
  
Taxes, assessment of, 12, 16;  
    business, see business taxes;  
    collection of, 11, 16, 111;  
    delinquent, 16;  
    exemption from, 14, 15;  
    personal property, 21;  
    powers of municipalities, 11;  
    school, see school tax;  
    when due, 16;  
    see also property, business, vehicle, etc.  
Tax income, 17-19, 24, 112, 117, 119.  
Tax rates, 9, 13, 18, 19, 112, 119.  
Tax warrants, 105, 106, 115;  
    see also debt.  
Telephones, 64;  
    see also franchises.  
Telephone and telegraph, assessment of, 20.  
Town collectors, collections by, 24.  
Transportation, free, 64.  
Tuberculosis sanitariums, 92.  
Tuition, 56.  
  
Undertaker's tax, 42.  
Unimproved property, exemption from taxation, 14.  
Urbana, 9, 18, 21, 35, 40, 43, 71, 108, 112.  
  
Vehicle tax, 10, 32, 43, 44, 45, 113, 117, 118.  
  
Water plants, 9, 10, 74-85, 114.  
Wheel tax, see vehicle tax.  
Wisconsin Railroad Commission, 77, 86.





MAP SHOWING LOCATION OF CITIES STUDIED.

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FRIEDRICH GENTZ

an Opponent of the  
French Revolution and Napoleon

BY

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## TABLE OF CONTENTS

	PAGE
INTRODUCTION .....	9-11
I. THE CAUSES OF THE STRUGGLE	
1. ENVIRONMENTS OF THE YOUNG GENTZ.....	12-21
Berlin between 1780 and 1790, 12. Prussia under Frederick II and Frederick William II, 13. Conditions in the "Empire", 14. German patriotism and cosmopolitanism, 16. Political and intellectual tendencies in Germany between 1780 and 1790, 18. German rationalism, 19. Position of the German author, 21.	
2. GENTZ'S CHARACTER .....	22-30
Influence of environments, 22. Physique, 22. Relations of intellect to sentiment, 22. Love of discussion, 23. Gift of conversation, 24. Receptivity and originality, 25. Secondary traits of character, 26. Relation to romanticism, 26. Sociability, 27. Ideals of life, 27. Qualifications as a politician, 29. Literary ability, 30.	
3. GENTZ'S POLITICAL THEORIES.....	30-52
Difficulty of presenting them, 30. Their general sources, 31. Natural law, 31. Political theories of Cicero, Garve, Rousseau and Montesquieu, 32.	
Gentz's political theories until 1790, 36. Burke's theories, 38.	
Gentz's views on government since 1793: Relation to natural law and positive-historical law, 39. Ideal of human progress, 42. State of nature and social compact, 43. Later view on the basis of the authority of the government, 44. Duties of the state, 44. Forms of government, 45. Liberty, equality and popular sovereignty, 46. Defects of government, right of revolution and progress, 47. "Eternal laws", 48.	
Gentz's views on international law since 1793: Idea of a world state, 48. Rights and duties of the individual states toward one another, 49. International congresses, 49. The European balance of power, 50. War, 50.	
Problem of priority of Gentz's political theories to his political struggles: influence of Cicero, 50.	



	PAGE
II. THE STRUGGLE AGAINST THE REVOLUTION	
1. BEFORE THE STRUGGLE: 1789-1792.....	53-60
Germany and the Revolution, 53. Gentz's state of mind on the eve of the movement, 56. His early sympathies with it, 57. Observation of events, 57. Change of attitude, 58.	
2. 1793-1799 .....	60-83
Gentz's official position and life in Berlin, 60. Anti-revolutionary publications, 61. Early relations to foreign governments, 62. Causes of activity, 64. Influence of Burke and Mallet du Pan, 64.	
Gentz's conception of the Revolution and the duties of Europe: Conditions in pre-revolutionary France, 67. Immediate causes of the Revolution, 67. Rousseau, 69. Beginning and end of the Revolution, 69. Its importance, 70. Its fundamental principles, 71. Its relations to Europe, 74. Europe in 1800, 76. Secret of the successes of the Revolution, 77. Proper policy of Europe, 79. Relations to England, 80.	
Temporary suspension of the struggle, 82.	
III. THE STRUGGLE AGAINST NAPOLEON	
1. BEFORE THE STRUGGLE: 1798-1802.....	84-88
Napoleon and the Revolution, 84. Gentz's attitude toward Napoleon until the Coup d'état, 85. Beginning of opposition, 87.	
2. 1803-1809 .....	88-134
Gentz's appointment in Vienna, 88. His life and ambitions, 90.	
General features of Gentz's struggle against Napoleon: Its causes, 91. Idea of coalitions, 94. Attitude toward Russia and England, 95. Memorials in general, 97. Correspondence, 98. Publications, 98. Other methods of opposition, 99. Ultimate aims, 99. Judgment on the personality of Napoleon, 99.	
Spring, 1803,-summer, 1805: Gentz's life and frame of mind, 102. Memorials, 103. Relations to St. Petersburg, Berlin, and London, 104. Organization of the Austrian cabinet, 105. Career of Cobenzl, 106. Difficulty of his task, 107. His policy until the conclusion of the alliance with Russia, 108. Gentz's op-	

position to Cobenzl, 110. Suggestions as to Cobenzl's successor, 112. Memorials and their effect, 112.

Summer, 1805,-fall, 1805: Gentz's views on the European situation and the prospects of Austria, 117.

Fall, 1805,-end of 1805: Opening of the war by Napoleon, 119. Effect of Ulm, 119. Gentz's flight from Vienna, 120. Effect of Austerlitz, 122. Further flight and stay in Dresden and Prague, 122.

Beginning of 1806-beginning of 1809: Gentz's life and state of mind in general, 124. His plans concerning Prussia, 126. The *Fragmente*, 127. Memorials, 128. Social activity, 129. Meetings with Baron Stein, 130. Suspensions of Napoleon, 130. Visit at the Prussian headquarters, 131. Relations to England, 132. Return to Vienna, 133.

Gentz's activity during the war of 1809, 133.

### 3. 1813-1815 ..... 134-153

1809-1812: Gentz's life and activity in general, 134. His attitude during the Russian campaign, 137.

Spring, 1813,-summer, 1814: Gentz's views on the best Austrian policy, 138. His stay and activity at Rati-borwitz, 142. At Prague and Freiburg, 144. Return to Vienna, 145. Growing need of comfort, 145. Opposition to the continuation of the war after Leipzig, 146. Views on the reorganization of Germany and the best policy toward Napoleon, 147. Motives for distrust of the allies, 149. Relations to Metternich, 150.

Gentz at the congress of Vienna, 151. During the Hundred Days, 152.

### CONCLUSION ..... 154-156



## ABBREVIATIONS

- Aus dem Nachlasse*—*Aus dem Nachlasse Friedrichs von Gentz*, 2 vol., 1867-1868.
- Briefe v. u. a. Fr. v. Gentz*—*Briefe von und an Friedrich von Gentz*, ed. by F. C. Wittichen, 2 vol., 1909-1910.
- Briefw. zw. Fr. Gentz u. A. H. Müller*—*Briefwechsel zwischen Friedrich Gentz und Adam Heinrich Müller*, 1857.
- H. J.*—*Historisches Journal*, ed. by Friedrich Gentz, 6 vol., 1799-1800.
- Mém. et lett. inéd.*—*Mémoires et lettres inédits du Chevalier de Gentz*, ed. by Schlesier, 1841.
- Schlesier—*Schriften von Friedrich von Gentz*, ed. by Schlesier, 5 vol., 1838-1840.
- Weick—*Ausgewählte Schriften von Friedrich von Gentz*, ed. by Weick, 5 vol., 1836-1838.

## BIBLIOGRAPHY

For bibliography it will be sufficient to refer here to that given by Friedrich M. Kircheisen and Friedrich Carl Wittichen in *Mitteilungen des Instituts für Österreichische Geschichtsforschung*, XXVII (1906), 91-146 and 682-694.





## ERRATA

1. Page 30, line 11, for "at" read "the".
2. Page 39, line 3, for "Burke," read "Burke."
3. Page 53, toward end of note 1, for "January 21st, 1792" read "January 21st, 1793".
4. Page 54, line 27, for "couse" read "cause".
5. Page 55, line 20-21, for "Z. L. Huber" read "J. L. Huber".
6. Page 61, line 16, for "Office" read "office";  
     line 22, for "Übel" read "Über";  
     line 24, for "Herra" read "Herrn";  
     line 25, for "Nationalerziehung" read "Nationalerziehung".
7. Page 62, line 17, for "Entstehung" read "Entstehung";  
     line 33, for "Teutsche" read "teutsche".
8. Page 67, line 14, for "overpupulation" read "overpopulation".
9. Page 77, line 27, for "refernce" read "reference".
0. Page 88, note 12, for "70," read "70."
1. Page 89, note 13, for "Tagebücher", omit quotation marks.
2. Page 97, line 31, for "the" read "The".
3. Page 125, line 3, for "entire" read "central".
4. Page 126, line 13, for "is" read "in".
5. Page 136, line 28, for "mostly" read "much".
6. Page 141, line 6, for "first" read "second".
7. Page 143, line 31, for "enrahissement" read "envahissement".
8. Page 153, line 1, for "concession" read "cession".

~~was, fundamentally~~ the deepest and truest. For Geniz was indeed rooted in the doctrines of rationalism, at least as



Narrow personalities are easy to understand and to classify; rich personalities, on the other hand, seem to defy definition.

That, at least, is one of the teachings that may be derived from a study of the career and character of the publicist, Frederick Gentz. Gentz's life was not an unusually long one, yet it was unusually rich in activities and complex tendencies. But the causes of this lay less in the tremendous vibrations of the era in which Gentz lived than in the man himself; they lay in a versatility of mind which was truly astonishing. An official in the Prussian and Austrian civil services, a diplomatic agent of England on the Continent, the self-appointed adviser of ministers and rulers, one of the busiest and ablest writers of his time, the arch-enemy of the first French revolution and the first Napoleon, the secretary of Europe during nine highly important months, one of the pillars of the Reaction, a social genius of the first order, the *bohémien par excellence*, and a romanticist as well as a rationalist—all this Gentz was. His youth fell in the era of enlightenment and of Frederick the Great, his manhood coincided with the first French revolution and with Napoleon, and his later life belonged to the age of Metternich.

The question who Gentz was would thus seem to be difficult to answer. However, if we consider only his political activity and the intellectual traits of his nature, leaving aside its sentimental and social features, the answer will be easier. We will then have the choice between two chief conceptions of the man. One of these would be to see in Gentz an eighteenth century type in general, and a practical exponent of the rationalistic doctrine of government in particular. This conception is in one way undoubtedly the deepest and truest, for Gentz was indeed rooted in the doctrines of rationalism, at least as



regards his political activity. It has, however, one serious drawback, the fact that in its light the life-work of Gentz—his struggles against the Revolution, against Napoleon and for the Reaction—appears as nothing but a mere appendix to his theories; and that, of course, would be a rather abstract way of looking at him. We have thus to turn to the other conception which puts actions first and theories second. Viewed from this angle, Gentz would be seen chiefly as a participant—more or less a negative one, it is true—in the great European movements between the first and second French revolutions.

And thus, it seems, Gentz must indeed be viewed. He was essentially a theorist whom the course of events aroused, but in fact a man of action. He started out with highly idealistic principles, those of human brotherliness and human progress, of liberty, equality, justice and peace. Some of these he retained and championed for many years; others he soon dropped or at least modified, taking up in their stead, as a new principle, the defence of that system which was threatened with overthrow by the events of 1789 and the following decades. The French Revolution, Bonapartism and Liberalism alike were hateful to him; they all meant democracy or at least a drifting towards it, and democracy he abhorred. But his special foe, his nightmare for more than ten years, was Napoleon. On his account he suffered many a bad hour and gained immortality; for such is the character of true greatness that mere opposition to it brings fame. He helped to arouse and to organize the opposition against whatever was revolutionary and aggressive; but nowhere was he more fervent than in his crusade against this hated man and gigantic child of the Revolution. His whole life, indeed, centers about the ten years of his anti-Napoleonic activity.

The following study will, in general, be in accordance with the second of the two conceptions. It aims, in the first place, at a careful representation of Gentz's struggle against the first Napoleon. Its second object—historically the first—is an account of Gentz's relations to the first

French revolution. The introductory chapter will try to give the causes of Gentz's attitude in both cases.

Gentz was born in 1764 at Breslau, the capital of the Prussian province of Silesia, and died in 1832 at Vienna. His father held until 1779 a position in the royal mint at Breslau and then became director of the mint at Berlin; through his mother he was related to the later Prussian minister of state, Ancillon. He received his first education in the public schools of his native city and in the Joachimsthal-Gymnasium at Berlin; from 1783 to 1785 he attended the university at Königsberg, where Kant was still teaching. Entering the Prussian civil service in 1785, he worked during the following years in various central boards of the monarchy. In 1802 he was taken over into the Austrian civil service. His official position there was at first a very vague one; he was attached to the ministry of foreign affairs, the *Staatskanzlei*, but had little to do and nothing to say. After about 1811, however, he gradually became the right hand man of Metternich and was as such of course, important and influential.

## I. THE CAUSES OF THE STRUGGLE

### 1. ENVIRONMENTS OF THE YOUNG GENTZ.

Although Gentz was not a Berliner by birth, yet he lived long enough in the Prussian capital to be counted as one. The first *milieu* of his youth was then the Berlin of about the years 1780-1790. Beyond it lay, as larger circles, the condition of Prussia and of the "Empire". Beyond these again extended the atmosphere of European life and thought in general.

Berlin was at the time of the death of Frederick the Great a city of about one hundred and fifty thousand people, the strong garrison included. A modest-sized place then, one might say, if everything had not been smaller in those days. Scenic charms it never possessed, although the near-by Havel lakes are not without their quiet, melancholy attractions. Its streets were none too clean, rather badly lighted and unsafe at night. There were perhaps a few noteworthy buildings here and there, but the general level of architecture was rather low. The present university had not yet been founded; the academies of science and of arts, however, already existed.

The intellectual and artistic life of the city could not claim any special distinction. No famous philosopher or scholar, no great poet or artist lived within its precincts; there were, of course, Nicolai and Mendelssohn, but they could not be called great, and Lessing had long since left the city. Berlin was too new and young, too sober, too busy and too poor to be a centre of learning and of art; it possessed many soldiers, plenty of sand, an invigorating climate and a great king, but no Hesperian gardens and no zephyrs, few books and hardly any history to speak of. Nevertheless, in a certain sense the city could even then boast of intellectual preeminence: it was the center of German rationalism and already endowed with that critical

mind for which it has ever since been famous. Socially the nobility predominated; the other classes—the officials and the professions, the wealthier merchants, the descendants of the French *émigrés* and the Jews—still counted for little. The moral standard was unsatisfactory in many regards, but probably not so bad as anti-rationalists would have it; it had already been on the decline in the later years of Frederick the Great, and under his successor matters went from bad to worse.

All in all, then, it must be admitted that the Berlin of those days was rather uninteresting. One great attraction it did possess, however, and that was Frederick himself. His fame still brought distinguished visitors from abroad; but they came more and more rarely, afraid of disturbing the great man in his work. To the general public the king was generally not visible. At military parades he could, perhaps, be seen, or when he occasionally rode into town; aside from these occasions, however, he never left his beloved *Sanssouci* except for the annual visits to the provinces. He had become a stern old man; a terribly exacting taskmaster whom few loved and all respected. Physical ailments troubled him, his friends had mostly died, and Berlin grumbled; but that mattered little. *Patriae in serviendo consumor*—this was his kingly program, to be observed by himself no less than by his subjects; as for the rest, he was the King, and every malcontent was at liberty to grumble, provided that he obeyed.

The political system of Frederick was in some respects based on rationalistic principles, in others, again, it was shaped according to practical considerations; to call it enlightened absolutism would, therefore, not be quite correct. Frederick maintained a big army; he waged three wars which were, at least in part, wars of conquest; and he thought remarkably little of the individual as such—in all this he was not a rationalist. Likewise, his confirmation of the privileges obtained by the Prussian nobility during previous reigns exceeded that which was permissible from the rationalistic standpoint. On the other hand, Frederick



was in harmony with the latter when he called himself the first servant of the state, when he put the common weal above all private interests, and would allow every one to seek salvation according to his own fashion.

Under his successor, Frederick William II, the general organization of the state was retained, but in less important points changes were made. The two notorious laws of his reign—the ordinances concerning public worship and the censorship of the press—were of great actual importance, but did not affect the formal structure of the state; they proceeded from the individual character of the king or of his nearest advisers and were intended as a blow against the hated rationalism. Although fundamental reforms did not come until after the *débâcle* of 1806, there was, even then, a good deal of discussion whether steps in this direction should not, after all, be seriously considered. Personally Frederick William did, of course, not enjoy the respect paid to his uncle, yet he was not unpopular with his people, rather the contrary, it would seem; but his reign, as a whole, was undoubtedly pernicious to the state. Subsequent events showed that under him Prussian efficiency, thrift and devotion to the common interests retrograded with sinister rapidity.

Beyond Prussia lay the "Empire." It had gradually become the most complicated as well as one of the least important political bodies of Europe. The emperor at Vienna, the diet at Regensburg, the supreme court at Wetzlar, traditions centuries old and the lack of something better kept it, in a way, together; yet its doom was near at hand. Austria, Prussia, and the more important of the smaller German territories had become absolutistic and centralized states; in the "Empire" the old German *Libertät* remained. The emperor still had to be elected, and the case of Charles VII showed that this meant more than a mere formality; he presided over the imperial diet, the strangest element of this strange political organization. This body, in general, contained the territorial lords; but these might be *neutra*, as was the case with the free cities



and perhaps, the free abbots. Represented or actually present were the temporal princes, high and low, the great dignitaries of the Catholic Church, the free abbots, the colleges of the imperial counts, knights and cities, and finally such foreign powers as possessed German territory. The Catholic votes still preponderated numerically; however, that involved hardly any danger to the Protestants, since in strictly religious matters the old *itio in partes* had been retained. As a rule, the august body would proceed with no undue rashness; time-honoured traditions had to be observed, and that being accomplished, little else remained to be done. The weakness and stagnation of imperial Germany resulted, of course, largely from the antagonism between Austria and Prussia. United, these two powers would have presented a most formidable combination, but the time was not yet ripe for that. There were the smaller German states and there was Poland; who would control the one and absorb the other? Neither power was willing to allow the other to do it, and thus the relations between them remained strained, with a tendency to become delicate at any moment.

The internal conditions of the different German territories outside of Prussia and Austria varied considerably. Bavaria stood apart. A Chinese wall was carefully drawn around it to exclude all possibility of protestant, rationalistic or pan-German influences; for these the ruling class considered dangerous. The country was to be their own reservation; besides, it really needed no suggestions from "abroad," being a self-sufficient state and, if you were ready to admit the facts, quite a power. West and north of Bavaria began the "Empire" in the narrowest sense of the word. The common features of this whole part of Germany—it comprised, roughly speaking, Suabia, the Black Forest district, Franconia, the Rhine country, the strip east of it as far as the Weser, and Thuringia—were three-fold: the territorial incoherence of all the states, the smallness of most of them and, as regards the population, a certain intellectual liveliness and love of independence.

Take, for instance, the Suabian district of the "Empire"; it contained one duchy, Wurtemberg, forty ecclesiastical territories, thirty imperial cities, many princely seigniories and the domains of the numerous free counts and free knights. Or take the electorate of Mainz; its nucleus consisted of the rich estates in the Rheingau and along the lower Main, but besides these it possessed also Bischofsheim on the Tauber, Starkenburg in the Odenwald, Fritzlar in Hesse, Erfurt, and the whole Eichsfeld. Territories of that configuration and insignificance would, of course, not think of having any independent policy. The smallest of them trembled for their very existence. They, the free cities, knights, counts and abbots, the bishops and petty temporal princes, then the archbishops and ecclesiastical electors mostly attached themselves to Austria, while the larger political states, during this period, sought the protection of Prussia. The nobility was almost everywhere firmly entrenched, if it was not the sovereign itself; in the imperial cities, of course, no nobility in the technical sense of the word existed, but there were the patrician families and in their hands the political power lay. The authority of the sovereign was nowhere unlimited or undisputed; the nobles, the chapters of the cathedrals, the lower classes in the free cities and sometimes even the peasants jealously guarded whatever rights they happened to possess.

Such then were the conditions in the "Empire." They resembled somewhat those of Italy, but aside from this there was not the like of them in all Europe; not even the moribund Poland could be referred to as a parallel. Obsolete and unsound they must have appeared to many; but they had also their attractive sides: they were venerable, interesting and indicative of great regard for historic rights. One of those who felt a sentimental attachment to the "Empire" on account of these reasons was Gentz.

The fact that Germany then was not much more than a geographical notion naturally resulted in a certain quiescence of national pride and sentiment. The poets of

the Storm and Stress and of the Göttingen group—the young Herder, the young Goethe, Schiller during the first years of his literary career, Lentz, Hölty, the two Stolbergs and others—had been fervent pan-Germans; but their patriotism referred more to the German past than to the German present, and they themselves belonged, with the exception of the young Schiller, to the preceding decade. Among the lowest classes there was if any but a local or provincial patriotism. The common theatre-going public, it is true, remained in the eighties as susceptible to the Storm and Stress spirit as it had been in the seventies; yet the numberless knightly dramas which swept the German stage of the time pleased the spectators less by their patriotism than by their ponderous sensationalism. In general, it may therefore be said that the masses were rather void of pan-German sentiment; the attachment to the province, the city, or the state preponderated with them. F. K. Moser, the Suabian publicist and politician, remarked shortly after the close of the Seven Year's War: "Yes, we have a national spirit as we have wine-producing territories and beer-producing territories, at every bend of the road another one." In a similar strain Wieland wrote: "There are, perhaps, Märckian, Saxon, Bavarian, Wurtembergian, Hamburgian, Nurembergian, Frankfortian patriots and so on; but German patriots who love the whole German Empire as their country and love it above everything else, ready to make real sacrifices for it, where are they?" The cultured classes, as a rule, believed in cosmopolitanism: they considered themselves first of all citizens of the world. There existed, however, important sections in this group which were less cosmopolitan than particularistic. The nobles, for instance, thought very little of the citizenship of the world; but, perhaps, they could not be called cultured. Winckelmann, the Goethe of that time, Heinse and the Romanticists of the following decade were, in a way, cosmopolitans too; Germany, at any rate, found little favor in their eyes, being, as they thought, an altogether too cimmerian part of the globe and no home for

the Graces. At the same time, it is true, each of them would love some far-away land beyond the mountains, ancient Greece, Italy, Spain, India, or the Orient in general, which was to him his real, his own country. Leaving these sections aside, there remained, as the bulk of the cultured classes, the out-and-out rationalists; and they were undoubtedly thorough cosmopolitans—men without a country. In Prussia the attachment to the province preponderated: the Pomeranian was first of all a Pomeranian, and the Silesian a Silesian. There existed, however, also a national Prussian spirit and that semi-national feudal bond of loyalty which connected the army with the person of the king.

The French prestige still suffered from the blow of Rossbach, and the internal conditions of France were not such as to raise it; among the literati, Lessing's attacks on the French drama, too, were remembered. Nevertheless, the old Gallomania largely continued; only it had now to compete with a rival, the budding German Anglomania. Shakespeare and Ossian, the idols of the Storm and Stress, disappeared, it is true, for the time being, from the literary horizon together with the windy heaths and foggy shores of their poetry; and likewise the great king felt, in his later years, none too kindly towards the British. But it had become somewhat the fashion to learn English, and at the side of the old French *Mademoiselle* there appeared now, as a governess, the new Anglo-Saxon *Miss*. Englishmen were more frequently seen traveling through the country and they found that reverential treatment which they expected and which they obtained far into the nineteenth century.

German public opinion was not yet strongly developed, and so far as it existed it was rather conservative. Nobody seriously thought of infringing upon the constitution of the "Empire." The system of limited absolutism was even unanimously recommended by the rationalistic political writers of the time. There were a few republicans, some enthusiasts for liberty in general, and numerous un-



willing tax-payers; on the whole, however, the spirit of opposition had been louder in the seventies than it was in the eighties. The condition of the peasants was conceded by many to be hard and indefensible; but these same persons were unwilling to endorse the abolition of the nobility as an institution, for that would have meant a revolution of the whole existing order of things. They favored slight changes; at the same time they considered the existence of a nobility as necessary to the welfare of the state, apprehending that without it the power of the sovereign might know no limits. The attitude of public opinion would thus seem to have been unduly submissive; appearances, however, are often deceptive. It was universally and most strongly insisted upon by all the rationalistic writers on political science that the rulers held their offices only as a trust, to be administered solely for the common weal; they would not have government by the people, but they demanded government for the people.

Intellectually, the years 1780-1790 may, as regards Germany, best be defined as a period of transition. The great intellectual movements of this country during the eighteenth century were rationalism, pietism, *Empfindsamkeit* or sentimentalism, the Storm and Stress, Hellenism, philosophical idealism and romanticism. Of these rationalism had undoubtedly been the most powerful; but its force was spent and it now abated visibly. The German pietism continued to hold its position, and the same may be said about the German *Empfindsamkeit*, inasmuch as the latter became one of the chief sources of the German romanticism; both of them were essentially German movements and thus proof against the flutter of fashion. The Storm and Stress began to decline with the end of the seventies. German Hellenism had already reached its first zenith in the sixties; now it was to experience a second classical age. The year 1781 marked the beginning of the new philosophical idealism, and between 1786 and 1795 German romanticism sprang into existence.

The European movement which is commonly called



that of enlightenment was not a mere intellectual tendency; it amounted to nothing less than a new ideal of civilization. Its three main principles were the primacy of reason, utility, and humanity. Reason had now become the supreme judge in all human matters, and from the verdict of this judge there was no appeal; about that everybody agreed. But what was to be understood by "reason"? Only clear logical thinking, or certain innate ideas and tendencies, or both? Most of the rationalists, especially those in Germany, favored the third of these conceptions. They talked of a natural religion, of natural laws and natural rights, indicating by the epithet "natural" that disregard for these ideals was tantamount to disobedience against nature itself; and to bring humanity under the sway of this nature was to them a most sacred duty. The acceptance of the authority of the Bible and of the dogmas, the reverence for history and for tradition, the belief in miracles, religious intolerance, all and every shade of mysticism, every indulgence in sentiment, and the whole Middle-Age were, therefore, stigmatized as so many aberrations of the human mind. The cultivation of poetry and art in general they tolerated in a way; but only with many reservations. Art was then little cherished in Germany and for this reason left alone. Poetry, on the other hand, had become a matter of great interest to the Germans and could, consequently, not very well be ignored: it had to be advised, and thus the poets were gravely told that passion and sentiment were of no use and their expression, therefore, of still less; that every poem should try to give some profitable instruction and that the best instruction was a moral one. A certain indefiniteness clouded the third of the rationalistic principles, that of humanity. It could mean the ideal of developing all the human faculties, or the doctrine of altruism, or the recommendation of milder habits and manners in general, and in fact it did mean all this; the individual rationalistic writer might have in view only the one or the other of these meanings, but rationalism as a whole stood for all of them. Much enthusiasm was

manifested for the perfection and progress of the human race, for the idea of international fraternalism and for religious tolerance; likewise much interest was shown in the promotion of industry and agriculture. Few, if any, would advocate war and its cause; war was declared to be a waste as well as a crime and unworthy of enlightened men. Everybody, on the other hand, believed in the efficacy of education; training was everything: able men were not born, they were made.

Of particular interest for the student of Gentz's career is the position of the German author of the time. In countries like England and France an author in those days often acquired considerable wealth and political influence. In Germany, however, he was poor and of little consequence in matters concerning the conduct of public affairs; for there the government lay chiefly in the hands of the rulers, and perhaps the only German writer of that age who wielded any real influence upon them was Schlözer in Göttingen. If the conditions were favorable, then an author might, by his writings, obtain some respectable position at court or in the service of the government, as was the case with Goethe, Wieland and Herder; but that could not be depended upon. Schubart, for instance, never attained any such recognition; Lessing died as a librarian in the world-forsaken Wolfenbüttel; and Schiller was at this very time a homeless man, wandering from place to place. Literary careers such as Voltaire's in France could then not be thought of in Germany; even that of Mallet du Pan in the pre-revolutionary Paris would have been well-nigh impossible. Yet the literary career had after all, even in Germany, one very attractive side: it was the simplest and straightest way to fame and to popularity, provided that the writer knew his readers. The German of that day had little interest in politics, but he cared very much for poetry and philosophy; there, then, lay the golden opportunity for the writers, and in this way Klopstock, Gellert, Goethe, Schiller and Kant had become the favorite sons of the nation.

## 2. GENTZ'S CHARACTER.

To what extent this environment helped to form Gentz's character is, as always in such cases, somewhat hard to say. His theories without a doubt were influenced by it in considerable measure; his character, however, developed more independently. Its chief characteristics were probably inborn, for they remain on the whole as fixed as was possible amid the tumult of such a life and such an epoch. They were characteristics affected by misfortune only temporarily at most, but rather susceptible to sickness and age.

Among the gifts with which fate had endowed this remarkable personality, a fine physique was not the least. Gentz was not really handsome; he possessed, however, captivating eyes and a very pleasant voice. His vitality must have been very great to start with, for despite the magnificent recklessness with which he spent himself in pleasure and in work, he reached, after all, well-nigh the threshold of three score years and ten. The weak point of his make-up was his nerves. He easily lost patience and was fearful of any uncertainty. Wind, rain, and above all storms were highly repulsive to him, and his interest in the condition of the weather is reflected in many of his letters. What he loved was to have a blue sky above him, to see the sun, and to breathe the quiet air; and when he once discovered that a place was meteorologically unsafe, then no amount of feminine charms, no gathering of illustrious names could make him stay there. The restless and at times wild life which he led did not, however, remain without consequences. His finances were almost from the start in hopeless confusion; in 1814 his health, too, began seriously to suffer. From 1825, perhaps, the latter became somewhat improved; but the old strength was after all gone, and at last death came as a consequence of general debility.

Intellect and feeling were equally developed in Gentz. Personalities of this sort are able to avoid the threatening

inner conflict only by allowing both sides of their natures to express themselves, and such also was Gentz's experience. Until 1819, he was firm in his determination to subordinate everything to the judgment of reason; nothing would, however, be farther from the truth than to attempt to term him on this account a rationalist pure and and simple. Even in the sphere of statesmanship, the emotions—confidence, reverence, benevolence and content—were for him factors of the highest significance, and likewise did he feel sentiment to be of the greatest importance in the provinces of art and religion. How much he allowed himself to be influenced by emotions, consciously or unconsciously, in his moods and in his relations with other people, will be seen later. More correctly could we call Gentz, therefore, a sentimentalist as well as a rationalist, recognizing in him one of those complex natures as rich as they are hard to define. In his youth, it is true, Gentz seemed to give little promise for the future, if we are to credit his oldest biographer; a good boy, amiable and easy-going, with but little talent if not actually dull—so the estimates of him run.<sup>1</sup> The judgment of a later biography is, however, rather different; according to it the young Gentz was not at all dull, and well thought of by the teachers of his Gymnasium in Berlin.<sup>2</sup> The two accounts seem contradictory, but in reality both are credible; Gentz may have been easy-going at home and active at school, combining within himself tendencies for pleasure and work in a way which still persisted in later years. From 1793 on, he certainly left no doubt as to his mental capacity, astonishing, we may well assume, not a few of those earlier skeptics.

One of the prominent features of Gentz's character was his love for the discussion of problems. Orally and in writing, in treatises, letters and official notes, he gave way to this passionate pleasure; in the broader sense of the word, he argued almost all his life, with Kant and Hamann

<sup>1</sup>Varnhagen von Ense, *Galerie von Bildnissen aus Rahels Umgang und Briefwechsel*, II, 162.

<sup>2</sup>Schmidt-Weissenfels, *Friedrich Gentz*, I, 8 f.



in Königsberg, with friends such as von Humboldt and Adam Müller, with the Revolution, with the hated Cobenzl and the equally detested Napoleon, in short with well-nigh every one with whom he came into positive or negative contact. His motives in this were sure to be various. One was his interest in the analysis of problems as such, to which we have before referred; a second was his wish to be able to enjoy his dialectic superiority; still another was his endeavor to see his political ideas realized; a fourth, finally, was the great sociability of his nature. With his equals he was in these discussions open and direct; with his superiors, on the other hand, Cobenzl excepted, truly deferential. In all argumentation he was concerned with truth alone. It would have been impossible for him to defend something, of the correctness of which he was not convinced; for that he was far too honest.

Closely related was Gentz's eminent gift of social conversation. It was more necessary for him to speak than to write, and he loved to express himself fully to others or to chat with them even when there was no problem at issue. Whenever he was in the proper mood he could talk very seductively and fascinatingly, and the fact may perhaps be a matter of surprise that he found entertainment among men as attractive as among women. It would be incorrect to term him a ladies' man; but he certainly was a master in social intercourse with women, particularly with those of standing. When he made use of his beautiful eyes, when his gentle voice softly flattered the ear, when he spoke of his boundless devotion or in his spirited fashion discoursed of serious things—then he must indeed have been hard to resist. The circle of his feminine acquaintances was therefore large, reaching almost to the throne, and it is safe to say that without this gift of light as well as of substantial conversation Gentz would not have attained to the illustrious social position in Vienna,—a position which meant so much to him politically—that with its assistance he won so easily.



Speech is not in and of itself, however, of equal importance with thinking; mere words are cheap, but clear, deep, and original thinking is by no means so. How was Gentz's intellect in this regard? It must be granted that he was no intellectual pioneer; he was original, perhaps, in nothing save the combination of the qualities which he embodied, and this he too, honest as ever, has himself granted. To Rahel, his particular confidant, he wrote in 1803: "You are a ceaselessly producing nature, I am a ceaselessly receptive one; you are a great man, I am the first of all women who ever lived. This I know: had I been physically a woman, I should have brought the earth to my feet. I have never discovered anything, never composed anything, never made anything. I am more electrical than metal and just for this reason a conductor of electricity without a second. My receptivity is quite boundless."<sup>3</sup> Gentz was, however, not at all on this account purely receptive. He read much and in this way accumulated material from all sides. This material he carefully arranged and moulded into a pleasing form, the latter point receiving much of his attention. If many of his treatises are notwithstanding not easily readable, this is not due to any lack of clearness of logic, but to the abundance of material; clear writing is often clear because superficial, whereas Gentz was, if anything, thorough. And not thorough alone, but likewise objective, even in the midst of the battle. He would have none of that extremely convenient principle that there are two sides to every question; to him a question might have many sides and ramifications, but there was only one truth and that truth was obligatory upon all. To assume that truth could be established by a majority, by the judgment of public opinion or moreover by the will of the common people was in his eyes both an absurdity and a crime. Principles of this sort he considered empty phrases; and of these he was the most irreconcilable foe. A very valuable intellectual peculiarity which Gentz pos-

<sup>3</sup>Schlesier, I, 113.

sessed was, moreover, his undoubted brilliancy. The animation of his mind, his many-sided interests, his wealth of ideas—secondary and not original, it is true—his ability to use these ideas quickly and fitly, the artistic quality of his conversation, and an undeniable humor—all these combine to give him a claim to be called brilliant. In this respect he was without question an exceptional figure.

As regards the other sides of Gentz's character there is not a little that could be mentioned, for Gentz was anything but narrow and dull. He was possessed of much natural good-nature, much independence of spirit, and much restlessness; besides, he was endowed with an elasticity of temperament which kept him youthful almost to the last. He liked sensation when not too strong. He deviated not a hair's breadth from his principles; on the other hand, he was entirely lacking in military spirit and feared noisy crowds, unknown faces, age, and death. For nature, especially for his beloved mountains, the "silent, icy" peaks of the Alps as he calls them, he always felt a warm affection, not unlike that of a boy who comes home for a few days' vacation; but above this unadulterated nature he still placed that artistically beautiful nature of the kind that one meets with in architecturally planned gardens. In many regards he was a romanticist in the sense of the two Schlegels, although he expressed himself not infrequently in a rather disparaging way concerning the younger of the brothers and concerning Tieck. He was a romanticist in his inner wealth of life, his warmth of feeling, his reverence for the feminine, his exalted levity, his sense of the poetical and his love for nature, in his occasional need of solitude, in his reverence for the past and in his catholic tendencies, or rather in the combination of all these qualities. If we were to name a single and comprehensive characteristic which above all he had in common with the Schlegels, it would be his antipathy toward whatever was commonplace and philistine. His appreciation of reason and understanding, his energy and

cheerfulness, as well as his interest in politics were, it is true, quite unromantic features of his make-up.

Gentz could apparently not until late in life dispense with social intercourse. Along with his occupation with politics, it was for him the salt of life. The equipment for playing a rôle in social life he possessed with the exception of one thing, noble birth; and this was unfortunately a point to which at that time especial importance was attached. It was therefore necessary for him to make up for the deficiency, as far as this was possible, by falling back upon other personal distinctions which were available and useful to this end. What helped Gentz here most, beyond doubt, was the thoroughly aristocratic character of his whole nature. Intercourse with people who stood outside the sacred circles of high life was under certain circumstances very attractive to him, his intimate relations with Adam Müller and others testify to this; but his real atmosphere was, after all, the perfumed air of the drawing-room. His love of comfort, his absolute light-heartedness, his sense of the artistic, the gentleness of his manners, his egotism and his ambition forced him thither, or at any rate away from the common crowd; he belonged to the *élite* and wanted to belong to them, intellectually, socially and politically. We know how completely successful he was in this endeavor; that he was so, however, especially the manner in which he succeeded in gaining *entrée* into the very exclusive circles of the high Austrian nobility and in establishing there a place for himself, will always be a circumstance for wonder to him who knows the laws and habits of this West-End of Europe. With time, it is true, when he had drunk long enough from this cup of bliss and that old age which he feared so much was gradually drawing on, his love for society life waned very considerably.

In the final analysis, Gentz had, after reaching full manhood, three fundamental ideas: influence, pleasure, and justice; the first two governed his life in general, the third his political theories in particular. He wished to play a rôle in the world and felt that he had the power within

himself to do so; and this rôle was to be principally that of statesman. But he did not entertain such ambitions from the start. To Elizabeth Graun, one of his first loves but by no means his last, he writes in 1785 in a perfectly bucolic, Rousseau-like manner: "Life with four or five excellent people but without compulsion, without restraint in the most unconfined, happy freedom of nature, limited by no considerations of ceremony, embittered by no fear of misconstruction, furthermore in the quiet bosom of sweet, sweet nature—wouldn't that be the only thing which could make such people as we are happy? But tell me, would we wish more, would we not gladly leave all the vain show of the world of fools, all the money to Jews, all the learning to the schools and look from our little happy circle into the big world . . . as occupants of a good, quiet warm room looking out into the autumnal country, where the evening wind in a cold, cold rain drenches the fallen leaves?"<sup>4</sup> Already in 1802, however, he expresses himself to Brinckmann, then in Berlin as envoy from Sweden and always one of his closest friends: "My hour has struck; the course of my long, long youth is ended; I renounce the abundance of life's pleasures and consecrate myself to the serious activity of my head, which is still young. I shall henceforth lead a cooler, more tasteless but, I strongly hope, more uniform and harmonious life; and upon the ruins of all my old inclinations and passions and pleasures there shall be erected nothing but ambition for true fame, and a certain pride, which heretofore has been but repressed for that which really lies hidden in the depths of my soul beneath a quite foreign exterior, shall be exalted."<sup>5</sup> In 1826 he likewise endorses the word of Johannes von Müller, the Swiss historian: "Surely a single good idea, contributed at some time in life at a peace negotiation or in some other important transaction is of greater influence than the arrangement of a whole archive."<sup>6</sup> Next to or

<sup>4</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 67 f.

<sup>5</sup>*Ibid.*, II, 100.

<sup>6</sup>*Schlesier*, IV, 287.



perhaps parallel with this ambition stood Gentz's love of pleasure, of pleasures high and low. He was a born master of the art of living, knowing how to get out of life all there was in it. "He who expects to enjoy always, never enjoys;" "the sum of all wisdom is: make use of the present!"; "let us live, live and not merely exist"—so he writes as early as 1785 to Elizabeth Graun;<sup>7</sup> and he lived in accordance with this doctrine then as well as later. The third of his fundamental ideals, that of justice, was, as we have already noted, significant directly only for his political theories; since, however, his theories in turn very strongly influenced his political activity, the actual extent of this ideal was in his case much greater. From it, above all, he derived the ever-glowing fire of passion and energy which characterizes his fight against the Revolution and Napoleon; but he had it to thank too for many hours of deep sorrow. It was a help to him, but also a burden and a ballast which seriously handicapped his actions, as high principles are so likely to do if closely adhered to.

Gentz was a born politician, as he has been called, only in part. Ambition, interest in politics, the needed social talents and a knowledge of the diplomatic language of French he possessed; other quite as important traits of the true statesman, however, he lacked. Above all he was not what the Germans term a *Realpolitiker*, at least not until 1813. He saw everywhere only questions of right, but in politics power is the chief matter. Furthermore, he was not cool enough. The warmth and sensibility of his nature, in itself an attractive trait of his character, stood here in his way. He inclined to strong sympathies and antipathies and could not break off old intimacies or form new ones as quickly as the political constellation of the hour would require; likewise he easily lost his patience and felt ill at ease in the face of the unknown. Metternich was not so far wrong when he remarked that Gentz was always inclined "to view situations in the most lurid

<sup>7</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 73.



colors and to leap from extreme hope to extreme despair.”<sup>8</sup> A man with nerves like these and a temperament like his was indeed not to be employed as an independent force in foreign policies. Lastly, Gentz lacked entirely the gift of dissimulation; he could of course keep his peace, but hypocrisy was entirely foreign to his nature.<sup>9</sup>

Gentz's lack of these particulars had, however, also its good aspects; it made of him a remarkable if not a great publicist, and it is a strange thing that he should naturally have been most suited to the very activity for which there was at least place in the political system of his maturity. For the masses he never wrote; he had in view the educated classes and for this reason did not shun thoroughness. His style is always clear and apt, and often picturesque and dramatic, as for instance in many of his letters and especially in his memoir to Archduke John. And yet, in spite of these qualities Gentz cannot be called the greatest German publicist of his time, for beyond question this place was held by Joseph Görres.

### 3. GENTZ'S POLITICAL THEORIES.

The most important sources of Gentz's political activity were undoubtedly his political theories, and, on that account they now require an especial treatment. This treatment, it is true, will be neither entertaining nor simple, for an uncommonly unfavorable situation has to be faced in this case. Although he was possessed of a clear and systematic mind, yet Gentz was not a professional teacher of law and thus never arrived at any really connected presentation of his political ideas; in 1792, 1794-1795 and 1799-1800 he makes, it is true, certain attempts in this direction. On the other hand, Gentz was by no means a mere pamphleteer; he always writes after a careful consideration and with no little knowledge of the subject,

<sup>8</sup>Metternich-Klinkowström, *Österreichs Theilnahme an den Befreiungskriegen*, 599, note.

<sup>9</sup>Varnhagen von Ense, *Galerie von Bildnissen aus Rahels Umgang, und Briefwechsel*, II, 182.

trying above all to convince his readers by reasons. The presentation of the political thoughts of a man of his type must, therefore, necessarily be extensive as well as complicated.

We have no reason to assume that Gentz interested himself in questions of public law even while a student in the Gymnasium. Presumably, he came first in contact with them at Königsberg, where he probably attended Kant's course on the law of nature and certainly familiarized himself with the doctrines of the school of natural law. There he likewise became acquainted with Garve's edition of Cicero's *De Officiis*<sup>10</sup> and with Rousseau; however, it can not be ascertained whether the latter's political writings at that time entered into his vision. We are only slightly informed as to the years immediately following Gentz's stay at Königsberg; we know this that he read another work of Garve's, the treatise on the connection of morals and politics.<sup>11</sup> From 1790 on, we are somewhat better informed; Gentz now takes up once more the study of Montesquieu and devours everything that he can get hold of as regards pamphlets and newspapers dealing with the Revolution.<sup>12</sup>

The rationalistic doctrine of natural law, Cicero, Garve, Montesquieu and perhaps, also Rousseau then formed, so far as we know, the reading material from which the young Gentz drew his political ideas. In order to understand the latter it will, therefore, be necessary first to study the former.

At the times when Gentz studied at Königsberg, the German law faculties were almost completely under the sway of the school of natural law; the positive law made itself felt only later. The natural law in its turn was essentially nothing but the application of the general rationalistic tendencies to the sphere of political life and thought; its standpoint coincided with that of ordinary

<sup>10</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 140 f.

<sup>11</sup>*Ibid.*, I, 146.

<sup>12</sup>*Ibid.*, I, 182, 179 f.

rationalism, that is, with the recognition of the primacy of reason. From this general basis the natural law proceeded, however, to the construction of a system of individual ideas, the most important of which were the following: the placing of the natural above the positive right; the emphasizing of the cultural aims and problems of the human race; the supposition of a state of nature; the derivation of organized society from a fictitious or historic social compact; the distinguishing between the subject of sovereignty and its administrator; the assertion of the right of removing incompetent or bad rulers; the identification of state duties with the protection of law and the advancement of the general welfare; the proclaiming of inalienable rights of man; the basing of international law on reason, treaties and usage; the drawing of a parallel between the relations of citizens and states; the supposition of a universal state comprising all nations; finally the condemning of war as a falling back into the state of nature or into barbarism, and a general tendency toward progress. The most important of these ideas was, perhaps, that of the world state, of a *societas* of the nations or of a *civitas maxima*. It is found with most of the advocates of natural law and is conceived by them in analogy with the notion of the individual state: its executive is resting with the total of the separate nations, its laws are, above all, the precepts of reason and its supreme court of justice is formed by the public opinion of the world. It would, however, be difficult to say how far this universal state was considered really to exist and to what extent it was a mere fiction; to men like Wolf it represented no reality, but others believed in it so seriously that they even demanded the abolition of the existing states.<sup>13</sup>

The political ideas of Cicero are found especially in his work *De Officiis*, that is, in that with which the young Gentz familiarized himself. Since it probably, as will be seen later on, exercised a particularly strong influence upon the latter, it may be best to quote the most characteristic

<sup>13</sup>Cf. p. 20 f.

passages of this work of Cicero's; they are the following.<sup>14</sup> "Whatever is virtuous arises from some one of these four divisions, for it consists either in sagacity and the perception of truth; or in the preservation of human society, by giving to every man his due, and by observing the faith of contracts; or in the greatness or firmness of an elevated and unsubdued mind; or in observing order and regularity in all our words and in all our actions, in which consists moderation and temperance" (I, 5). "We ought to regard, to cultivate, and to promote the good will and the social welfare of all mankind" (I, 41). "The most extensive system is that by which the mutual society of mankind, and as it were, the intercourse of life is preserved. Of this there are two parts: justice, in which virtue displays itself with the most distinguished lustre and from which men are termed good; and allied to this, beneficence, which may likewise be termed benevolence or liberality" (I, 6). "That one virtue, justice, is the mistress and queen of all virtues" (III, 6). "There are two kinds of injustice; the first is of those who offer an injury, the second of those who have it in their power to avert an injury from those to whom it is offered, and yet do it not" (I, 7). "The foundation of justice is faithfulness, which is perseverance and truth in all our declarations and in all our promises" (I, 7). "Nothing is more disgraceful than insincerity" (I, 42). "The main cause why most men are led to forgetfulness of justice is their falling into violent ambition after empire, honours, and glory" (I, 8). "There is a man for you who aspired to be king of the Romans and master of all nations, and accomplished it—if anyone says this desire is an honest one, he is a madman" (III, 21). "No vice is more foul . . . than avarice, especially in great men, and such administer the republic" (II, 22). "The knowledge and contemplation of nature is in a manner lame and unfinished, if it is followed by no activity; now activity is most perspicuous when it is exerted in protecting the

<sup>14</sup>From the translation by C. R. Edmonds, London, 1865.



rights of mankind" (I, 43). "It is, therefore, more serviceable to the public for a man to discourse copiously, provided it is to the purpose, than for a man to think ever so accurately without the power of expression" (I, 44). "Those acts which are done in a timid, humble, abject and broken spirit . . . are inexpedient because they are scandalous, foul and base" (III, 32). "The administration of a government, like a guardianship, ought to be directed to the good of those who confer, and not of those who receive the trust" (I, 25). "Nor indeed is this forbidden by nature alone—that is by the law of nations—but is also in the same manner enacted by the municipal laws of countries . . . that it should not be lawful to injure another man for the sake of one's own advantage" (III, 5). "This is the peculiar concern of a state and city, that every person's custody of his own property be free and undisturbed" (II, 22). "The desertion of the common interest is contrary to nature" (II, 6). "The interest of each individually and of all collectively should be the same" (III, 6). "Equality of rights has ever been the object of desire; nor otherwise can there be any rights at all" (II, 12). "Equality . . . is entirely subverted, if each be not permitted to possess his own" (II, 22). "As to actions resulting from the customs of civil institutions of a people, no precepts can be laid down; for those very institutions are precepts in themselves" (I, 4). "Wars . . . are to be undertaken for this end that we may live in peace without being injured" (I, 11). "Our magistrates and generals sought to derive their highest glory from this single fact that they had upon the principles of equity and honor defended their provinces and allies" (II, 8).

If we compare these ideas with the corresponding ones of the natural law, their similarity will become immediately apparent: here as well as there, we find the belief in the cultural ideals of the human race and in the existence of a bond embracing all nations, the differentiation between state and ruler, the emphasizing of the promotion of the general welfare, the drawing of a parallel between



state and international duties and the rejection of offensive wars. It is true, there exists no complete harmony between the two doctrines—Cicero demands equality, he respects established institutions and customs, he knows of no natural rights in the special sense of the word and favors, of course, a republican form of government, while the doctrine of natural law takes an almost opposite stand on all these points—yet, these differences are in themselves of no great importance and remained almost unknown to the eighteenth century. In fact, so little was the period conscious of them that many rationalists would claim the Roman orator and statesman as one of their own; suffice it to mention here the names of Hume, Voltaire, Mirabeau, Robespierre, and Garve.

The translator and editor of Cicero, Garve, must to a certain degree, be considered a rationalist; he could, however, be called an eclectic philosopher almost as well. He rejects dogmatism and declares that not the theory alone, but the theory coupled with a careful consideration of actual conditions should determine the form of government and the framing of laws. Whether politics may successfully be connected with morals, he does not dare to decide being of the opinion that a satisfactory answer to that could not be given. The smaller states, he thinks, must yield to the vital interests of the larger ones; at the same time, however, he asserts that the rulers should consider it their duty to advance the welfare of all humanity. The most important duty of the government is, according to him, the protection of the law; he is not averse to moderate progress and a certain degree of liberty, but objects to a complete abrogation of the privileges of the nobility. He looks with admiration upon England and in the beginning sympathetically greets the Revolution.

The fundamental principle of Rousseau was the idea of the sovereignty of the people, which he holds, however, in a quite unique way: he demands that this sovereignty be exercised directly and without the division of the powers. Montesquieu, on the other hand, advocated the latter

and saw in the British constitution the model for every other constitution.

We have little direct information as to what political theories the young Gentz held. From a letter to Garve of October, 1784,<sup>15</sup> we may infer that he had, at that time, become acquainted with the translation of the *Officiis*; "an excellent book", he writes, "which exercised a very important influence upon my moral principles, my way of thinking and my character". Whether this influence emanated from Cicero himself or rather from the notes and treatises of Garve's edition cannot be said definitely; it is, however, probable that it proceeded from the former, for some years later Gentz begins to raise objections to Garve and to raise them from a rationalistic and Ciceronian standpoint. At the beginning of October, 1789, he writes to Garve that the principles of morals and of philosophy are most valuable when practically applied, an idea that the year before had been declared by the latter to be open to criticism.<sup>16</sup> At the end of October, 1789, Gentz makes further attacks on Garve and they contain the first direct utterances which we have from him on questions of public law.<sup>17</sup> It is, he asserts, a matter of doubt whether there was ever a state of nature, for the existence natural to mankind is one regulated by contracts. Through contracts rights are created, and where there are rights there are also duties. The latter may be divided into two kinds, those of compulsion and those of moral obligation; both of these are the precepts of reason, but only the fulfillment of the former can be enforced. The capacity for fulfilling the duties of compulsion is justice, that for fulfilling the duties of moral obligation beneficence or benevolence. Gentz does not recognize any rights based solely on superior power, for this would be antagonistic to reason and reason is to him the highest judge. Likewise he will not allow the ruler to treat the state as his property; the ruler, he declares, is

<sup>15</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 140 f.

<sup>16</sup>*Ibid.*, I, 144.

<sup>17</sup>*Ibid.*, I, 148 ff.

only "the first servant" of the state and subject to the verdict of the people. The states themselves, however, he believes to be moral personages; they stand toward one another in relations identical to those between private citizens and are, therefore, bound by mutual obligations. Further remarks date back to the year 1790. In one of them Gentz speaks with considerable emphasis of the rights of the people without, however, pointing out which particular rights he is thinking of.<sup>18</sup> Others are found in the treatise *Über den Ursprung der obersten Prinzipien des Rechts*.<sup>19</sup> Reason and liberty, so Gentz now assumes, form the true nature of mankind; reason, again, is the faculty of having ideas and represents the highest and original source of rights. The ideas of reason pertaining to law are inalienable and, therefore, called the "original rights of mankind"; of such ideas there are three: the common individual right over one's self, the right of property, and the right of maintaining contracts.

In short, Gentz's political system would then, according to this, until 1790 be the following: the chief elements of the human nature are reason and liberty; reason is primarily the faculty of ideas and as such the source of positive law; the precepts of reason are compulsory to all, even when dealing with foreign nations, and the most important of them are those of justice and benevolence; finally, the ruler is nothing but the mandatory of the popular will and accountable to its forum.

The years 1791 and 1792 were of special importance for Gentz's inner development. Unfortunately the course of this development is rather unknown, for Gentz's correspondence with Garve—the best source of information about his earlier political theories—is missing beyond April, 1791; we know, however, that during this period Gentz did considerable reading, likewise that he watched the events in France with great interest and was gradually losing his sympathies with the cause of the Revolu-

<sup>18</sup>*Ibid.*, I, 158.

<sup>19</sup>*Forschungen zur brand. und preuss. Geschichte*, XIX, 18 f.

tion.<sup>20</sup> In the beginning of 1793 Gentz appeared with the first of his many anti-revolutionary writings, the translations of Burke's *Reflections*, to which he added notes, and five political treatises from his own pen.<sup>21</sup>

Burke has certain points in common with rationalism; fundamentally, however, he is little of a rationalist. He practically knows no social compact and explains the origin of the state from the desire to get protection for existing contracts and agreements. The first obligation of the state he sees in this protection of rights, the second in "benevolence" or in the advancement of the general welfare. There is, according to him, no inborn right of equality; he would rather consider the state in the light of an association in which every member partakes of the profits in proportion to his investment. He considers freedom, in general, as a matter of small importance; the absolute freedom of the state of nature is inconceivable to him in organized society, but at the same time he advocates as little restriction of liberty as possible. Any right of participating in government he denies, reserving the conduct of public affairs to wealth, noble birth and talent; likewise he repudiates the tendency towards constructing constitutions at will; for these, in his opinion, must grow and cannot be fabricated. He strongly attacks the principle that everybody is naturally qualified to govern, maintaining that government is an art or, at best a trade which must be learnt like every other. Were we to ask him in what his ideal of a well-governed state consisted, he would answer: in the conception of a state in which order, prosperity, propriety, the protection of law and property, confidence in the government, and respect for the established order of things form the fundamentals of the community.

Gentz began to read Burke in April, 1791. At first he liked only the latter's style,<sup>22</sup> but in the introduction to his translation of Burke's work on the French Revolution he

<sup>20</sup>Cf. p. 57 f.

<sup>21</sup>Weick, I-II.

<sup>22</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 203 f.



declares himself to be in harmony also with the principles of the author.<sup>23</sup> His political theories at about the beginning of 1793 are then, according to him, those of Burke. After 1792, these theories develop but little; they may undergo slight changes, as for instance in 1814 and again in 1819, but on the whole, they are stationary. They form a unit; they must, therefore, be treated as such, and the following pages will try to present them in this form.

The first problem which confronts us here is the very difficult question whether Gentz must be classed with the rationalistic or with the positive-historic school of law. He has been claimed by both sides, and in reality he belongs to both schools: in his fight against the Revolution he proceeds more from positive-historical points of view, while he bases his opposition to Napoleon chiefly on a rationalistic line of reasoning.

Those who see in him more the adherent of the law of nature refer, of course, to such passages in his works as those in which the primacy of reason is explained. There are, it is true, many utterances of this kind in Gentz; however, if we analyse them closely, they do not always actually contain what, at the first glance, they seem to mean. Besides, there could be mentioned an equally large number of passages expressing a positivistic point of view. If we wish to arrive at a clear understanding of Gentz's attitude in this regard, we have, therefore, to proceed with the greatest caution and accuracy.

In the treatises of the year 1793, Gentz speaks of the "deduction of the pure notions of law", of the "precepts of the law of nature", of "original rights", of the "specific rights of mankind" and of "original natural rights";<sup>24</sup> likewise, well-known teachers of the law of nature, such as Grotius and Pufendorf, are mentioned and referred to as authorities.<sup>25</sup> Furthermore, we hear in 1795 that the

<sup>23</sup>Weick, I, 20 f.

<sup>24</sup>*Ibid.*, II, 76 f., 39, 87, 89 ff.

<sup>25</sup>*Ibid.*, II, 77.



idea of the community of mankind is "a fiction of reason striving for perfection" and the notion of the human perfectibility, "an idea founded on reason as firmly as the idea of a supreme being, or of an unending existence of the substances".<sup>26</sup> In 1800 we find the remark that eternal peace is demanded by reason, and that order and lawfulness are the symptoms of reason.<sup>27</sup> In 1793 Gentz declares that the advocates of the old order of things have to turn to reason; similarly he explains in 1800 and again in 1809, that it is advisable to order constitutions grown up historically according to the demands of logic and reason.<sup>28</sup> Even in 1817, he writes to Adam Müller: "Concerning all which can be recognized by reason there must be an appeal to reason, that is, to individual reasoning. . . . Explain it as you like, my first impulse will always be that of an appeal to my reason."<sup>29</sup>

In all these passages, Gentz clearly takes the stand of a rationalist. He is, however, not less emphatic in upholding the cause of the positive-historic law. In 1799 he calls the question regarding the lawfulness of an action the first and most important of all;<sup>30</sup> lawful, on the other hand, he declares in 1800 to be equivalent to whatever the sovereign commands.<sup>31</sup> At the same time he demands that no laws should be created which are likely to infringe upon existing rights;<sup>32</sup> likewise, he sees the main purpose of the social compact in the protection of the agreements and contracts entered into during the state of nature and in organized society.<sup>33</sup> He recognizes, in a general way, natural rights until about 1800, and as such he considers the right of liberty, property, self-defense, and of adherence

<sup>26</sup>*Ibid.*, V, 211.

<sup>27</sup>H. J., 1800, III, 713, 718, 771.

<sup>28</sup>*Ibid.*, I, 112 f. *Aus dem Nachlasse*, I, 298.

<sup>29</sup>*Briefw. zw. Fr. Gentz u. A. H. Müller*, 238 f.

<sup>30</sup>H. J., 1799, II, 309 ff.

<sup>31</sup>*Ibid.*, 1800, I, 18.

<sup>32</sup>*Ibid.*, I, 7, 30, 1799; II, 142.

<sup>33</sup>Cf. p. 43.

to contracts, while he rejects a natural right of equality and of personal safety;<sup>34</sup> yet he maintains as early as 1793 that states cannot be constructed on the basis of human rights and that these general rights are not inalienable. Very emphatically he asserts in the treatise *Über die Deklaration der Rechte*: "That the human being in entering into company with equals gives up part of its original rights only in order to enjoy the remainder in safety and to have the total of its manifold aims advanced,—upon that everybody agrees".<sup>35</sup> At all events, the natural and the civil rights are for him fundamentally different,<sup>36</sup> and in 1800 he declares, therefore, that there are no rights of man any more as soon as there are state rights;<sup>37</sup> in 1809 he even goes a step farther calling all talk about inborn rights mere nonsense.<sup>38</sup>

The chaos, then, seems to be complete. If we wish to clear it, we will have, first of all, to remember the particular notion of reason existing and prevailing at the time when Gentz entered the years of his maturity. At present, reason, in general, simply means the understanding or the faculty of logical thinking. The rationalism of the eighteenth century, however, understood by reason not only the latter, but also, and preeminently so, an assumed faculty of having ideas. Until Kant, the linguistic usage did hardly distinguish between the words "reason" and "understanding", using both of them interchangeably. In a certain sense, this practice was continued even later on; in general, however, Kant succeeded in introducing his differentiation between the two terms, and after him "reason" meant then more or less the faculty of ideas. Gentz uses the word "reason" in the old sense as well as in the new, and in this lies one of the chief causes of the seeming

<sup>34</sup>Weick, II, 89 f., 86. *H. J.*, 1800, I, 6 f.

<sup>35</sup>Weick, II, 63.

<sup>36</sup>*Ibid.*, II, 80 ff. *H. J.*, 1800, I, 75 f.

<sup>37</sup>*H. J.*, 1800, I, 61.

<sup>38</sup>*Aus dem Nachlasse*, I, 294.

confusion referred to above. For instance, when he declares that the man of conservative tendencies has, in defending his standpoint, to turn to reason, when he recommends the rational construction of constitutions or tells Adam Müller that an appeal to reason will always be his last and decisive act, he has undoubtedly in mind nothing but the understanding. A further cause of this confusion is Gentz's attitude in passages speaking of reason as of the faculty of forming ideas; in those he unquestionably appears, to a certain degree, as a rationalist. Yet, his rationalism is never without a tinge and is coupled with other tendencies. The ideas or commandments of reason are for Gentz, as we shall see later on,<sup>39</sup> since 1793 in general mere ideals ranking as such after the positive law; at times, however, they represent to him also strictly binding orders and then they are in rank co-ordinate with any positive law. Within the sphere of state law he places the positive-historic law invariably first, and there the precepts of reason have for him no other meaning than that of ideals. In the sphere of international law he generally considers the ideas of reason in the same light; now and then, however he places, in this case, the rational law at the side or even before the law established by treaties or by usage. His ultimate aim seems to be the transforming of all rational into positive law.

Among the precepts—or ideals—of reason that of the progress toward the perfection of the human race was for Gentz during a number of years the most important. It is found especially in his treatises of 1793-1795; after 1800 we hear little more of it.<sup>40</sup> The individuals, the state and the totality of the states, so Gentz demonstrates often and with particular emphasis, combine to advance this ideal: the individuals by devoting themselves to their calling, the state by protecting the law and promoting productive labor, and the totality of the states by cultivating the bonds of

<sup>39</sup>Cf. p. 49.

<sup>40</sup>Weick, II, 22 f.

intercourse and mutual good will existing between them.<sup>41</sup> Yet, in spite of his enthusiasm for human progress Gentz was never blind to the disadvantages and dangers usually connected with such growth,<sup>42</sup> and this feeling grew upon him more and more, until it finally almost broke up his enthusiasm for the cause of human culture. As early as 1805, he calls himself an opponent rather than a friend of progress; and this he continued to be until his death, although he always demanded the cultivation of the spirit of fellowship and mutual consideration.<sup>43</sup>

Gentz even in 1789 doubts whether there ever was a state of nature; he repeats his doubt in 1793.<sup>44</sup> He seems to believe, however, in the existence of a social compact, at least up to 1800,<sup>45</sup> and we may say that his conception of this compact lies about half-way between the strictly rationalistic and the historic point of view. The maintenance of the unlimited freedom of the state of nature, Gentz asserts, or the introduction of equality cannot have been the aim of the social compact;<sup>46</sup> the right of self-defense was even abolished by it.<sup>47</sup> But what did this compact then really aim at? It meant, answers Gentz, the renouncing of a part of the natural rights in order to enjoy the rest more fully and satisfactorily,<sup>48</sup> the protection of the individual, positive rights acquired by contracts before or during the alleged social compact,<sup>49</sup> the advancement of the manifold problems of humanity,<sup>50</sup> the establishing of a supreme legislature and executive authority,<sup>51</sup> and the

<sup>41</sup>*Ibid.*, V, 193, note; II, 24. *H. J.*, 1799, III, 447, 477.

<sup>42</sup>Weick, V, 190 ff. *H. J.*, 1800, III, 730 f., 747.

<sup>43</sup>Schlesier, IV, 176 f.

<sup>44</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 148 f. Weick, II, 64.

<sup>45</sup>*H. J.*, 1800, I, 4; III, 768, 772 f.

<sup>46</sup>Cf. p. 46 f.

<sup>47</sup>Weick, II, 90 f.

<sup>48</sup>*Ibid.*, II, 63.

<sup>49</sup>*Ibid.*, II, 88. *H. J.*, 1800, I, 5.

<sup>50</sup>Weick, II, 9, 63.

<sup>51</sup>*H. J.*, 1799, III, 280 ff., 302.



creation of a constitution and, by that, of a nation.<sup>52</sup> Gentz does not acknowledge any right of the individual to declare the social agreement null and void; he reserves it to the totality of the contracting parties acting as a united political body.<sup>53</sup> The mandate given to the supreme authority forms, according to him, a part of the social compact itself and lasts, on account of that, as long as the latter;<sup>54</sup> consequently, it cannot be recalled or abolished separately.

A wholly different theoretical basis for the authority of the state is given by Gentz in 1809, and it is probable that this new theory from then on and even earlier formed a part of his political system in general. It is formulated by him as follows: "To consider the monarch as the proprietor of the state (in the sense in which some private citizen may be called the owner of his estate) is an indefensible and undignified idea. It is true, the state is intrusted to the monarch; but only in the interest of the people shall he administer it; and the transference takes place not by virtue of a common, miserable contract, which can be terminated at will by any of the parties; to treat the state like a leasehold estate . . . is a blunder of such inexcusable magnitude that compared with it the idea of some of the older politicians assuming a divine right, a power handed over to the monarch, as it were, by God himself appears not only to be endurable but even attractive. The state is neither the property of someone, nor an object of the whims of the people; it is an everlasting community to bind together by indestructible ties the present, the past and the future; and in this sense it is of God".<sup>55</sup>

The duty of the state is for Gentz, in general, identical with the purpose of the social compact: it consists, in the maintenance of order and peace, in the assurance of a certain amount of liberty, in the protection of law and in

<sup>52</sup>*Ibid.*, III, 282; I, 488 f.

<sup>53</sup>Weick, II, 46, *H. J.*, 1799, III, 288 f.

<sup>54</sup>*H. J.* 1799, III, 282 f.

<sup>55</sup>*Aus dem Nachlasse*, I, 288.



the advancement of the general welfare.<sup>56</sup> The introduction of equality is excluded from it.<sup>57</sup> Of these duties the most important are the two last named, or, as Gentz says, the duties of "natural justice" and of "moral perfection".<sup>58</sup> They, again, rank according to their worth in such manner that the protection of law stands in the first place, the promotion of the general welfare, however, in the second place, and in establishing this scale Gentz deviates from rationalism more than anywhere else. "Law", he says, "is the fundamental basis of social existence and the supreme rule of the state. The public weal is a great ideal, but compared with law, it is subordinate".<sup>59</sup> The rights which he desires to be preserved by government are—and it is important to keep this in view—less the general, natural rights retained in organized society, than the individual rights based on special contracts;<sup>60</sup> of these, again, the right of property is the most important.<sup>61</sup> Gentz assumes that their fulfillment is of general interest and asserts more than once that the common welfare and the welfare of the individual are identical.<sup>62</sup> Of course, he does not fail to admit that a state governed according to these principles may appear harsh; but that cannot be changed. On the other hand, he finds that the strict enforcement of the laws makes their observance considerably easier; "to do what is right", he declares, "may, under such circumstances, often become hard and injurious, . . . but to know what duty requires will, at least, be no riddle."<sup>63</sup>

As to the form of government, Gentz shows a good deal of indifference towards all formulas, believing that none of them will give full guarantee of just laws and of a

<sup>56</sup>Weick, I, 55 ff., 90; V, 3 f. *H. J.*, 1799, III, 301 f., 312; 1800, I, 29 ff., 116 f.

<sup>57</sup>Weick, II, 86 f. *H. J.* 1800, I, 5 ff.

<sup>58</sup>Weick, II, 46.

<sup>59</sup>*H. J.*, 1800, I, 30.

<sup>60</sup>Weick, II, 63 f., 88, 98. *H. J.*, 1799, III, 301 ff., 310 ff.; 1800, I, 4 ff., 30 ff.

<sup>61</sup>Weick, II, 199, 90.

<sup>62</sup>*Ibid.*, V, 3, 193.

<sup>63</sup>*Ibid.*, II, 56.

rigorous enforcement of existing regulations.<sup>64</sup> He lays, therefore, more stress on sagacity and experience<sup>65</sup> and is insistent only on that nothing but the law shall be authoritative in the state.<sup>66</sup> In reality, it is true, Gentz is less indifferent towards the form of government than he often pretends to be. At the time of the beginning of the French Revolution and at any rate until 1794, he considers the then existing British constitution as the best imaginable and would like to see other constitutions being shaped after it.<sup>67</sup> In 1799 we find him in irresolute oscillations: incidentally he still points to the British constitution as a model;<sup>68</sup> but at the same time he remarks that the purely monarchical form of government is as good as any other.<sup>69</sup> After 1800 he comes out more and more openly for the system of enlightened absolutism; from then on he is, at any rate, the untiring foe of democracy.

If the ideas of liberty, equality and sovereignty of the people may be called the fundamental principles of democracy, what was, then, Gentz's attitude towards them?

Liberty as such is to him no political ideal in the proper sense of the word.<sup>70</sup> In the state of nature, he declares, everybody was free, even absolutely free; in organized society, however, only restricted liberty is possible. There, the one form of liberty which is indispensable is the absence of arbitrariness or despotism and the rule of the law. A greater amount of liberty, Gentz thinks, would be injurious to the true interests of the state; for no government, so he asserts repeatedly and emphatically, can be efficient and beneficial, except it be strong and centralized.<sup>71</sup>

<sup>64</sup>*Ibid.*, I, 112. Translation of Mallet du Pan, conclusion. *H. J.* 1799, I, 490 ff., III, 283, 286.

<sup>65</sup>Weick, I, 112, note; II, 9, 40, 88. *H. J.*, 1799, III, 286 f.

<sup>66</sup>*H. J.*, 1799, I, 489; III, 284.

<sup>67</sup>Translation of Mallet du Pan, 22, note, 33, note.

<sup>68</sup>*H. J.*, 1799, III, 448, note.

<sup>69</sup>*Ibid.*, I, 498.

<sup>70</sup>Weick, II, 86 ff., 120; V, 197, note. *H. J.*, 1800, I, 77 ff.

<sup>71</sup>Weick II, 12. *H. J.*, 1799, I, 298ff.; II, 55, 457; 1800, I, 121 ff., 165 f., 336; II, 457. Weick, II, 56. *H. J.*, 1800 I, 196, 341 I.

Equality<sup>72</sup> is rejected by Gentz in the most absolute way, if equality of rights is meant; it is, on the other hand, accepted, if it means equal protection of acquired rights. The first he calls the "objective", and the second the "subjective" equality.

The principle of the sovereignty of the people is of all democratic doctrines the most hateful to Gentz, because it is the most important and far-reaching. He denies any right of participation in the conduct of public affairs, any alleged natural ability to govern, any possibility of finding out what the popular will demands and consists of, any right of the citizens to criticize the laws of the state from the basis of general principles, in short, everything that has been said about and in favor of this hated doctrine.<sup>73</sup> To him government is an art requiring talent and training as much as any other art,<sup>74</sup> and, on account of that, he would reserve the right of cultivating this art to the sovereign of the state, to his officials, to noble rank, to wealth, in a certain sense also to talent.<sup>75</sup> Summing up his objections he remarks in 1809: "The sovereignty of the people is the wildest, most wicked, most dangerous of all chimeras".<sup>76</sup>

Gentz does not, as might be expected, assume that there is anything like complete justice to be found administered even in the best of the existing states;<sup>77</sup> but he denies, nevertheless, any right of withdrawing from the social contract, so long as not all the participants are ready to do so. A right of revolution is neither rejected nor acknowledged by him;<sup>78</sup> as a matter of fact, however, he dislikes revolutions most heartily. He abhors the idea of

<sup>72</sup>Weick, II, 85 ff., 107 ff.; V, 199. *H. J.*, 1800, I, 5 ff., 83.

<sup>73</sup>*H. J.*, 1799, III, 292 ff. Weick, I, 112 note. Translation of Mallet du Pan, 20 f., note, 101, note, 89 note. *H. J.*, 1800, I, 76.

<sup>74</sup>Weick, II, 9, 12 f.; V, 4, 193, note.

<sup>75</sup>*Ibid.*, I, 90, note, 23 ff., 44 ff.; II, 136 ff., 13 ff.; IV, 75 ff. *H. J.*, 1800, I, 26. *Mém. et lett. inéd.*, 87.

<sup>76</sup>*Aus dem Nachlasse*, I, 288.

<sup>77</sup>*H. J.*, 1800, III, 777.

<sup>78</sup>Weick, II, 35 ff.

removing a ruler and bases his attitude in this regard on the theory that the ruler's mandate lasts as long as the social contract itself, that is, as he expects, forever. He preaches obedience and confidence to those who are governed, and a paternal consideration of the common weal to those who govern; or, to use his own words, he demands "on the part of the people respect and confidence, on the part of the authorities generosity and firmness, strength and benevolence, frankness and paternal care".<sup>79</sup> Progress there must be, of course; but this progress should be slow and never too incisive. In 1799 he still adheres to the programme of "conserving by improving";<sup>80</sup> by the end of 1805 he declares, however, that although wishing for a balance between the forces of conservation and progress he was, at the present time, working exclusively in the interests of the first.<sup>81</sup>

Gentz uses not unfrequently—as he does especially in 1804 and 1805—expressions like "eternal laws", "eternal principles", "divine and human rights", "most sacred principles", or the like, and exhorts the princes as well as the people to stand up for the defense of such rights and principles.<sup>82</sup> What he understands by them will become evident when we consider that he apparently uses the words "foundations of the social order" and "principles of public order and morality" as synonyms of the expressions named above; according to this, he would, then, use the latter in order to designate the ideas of his political system in general.

If we turn to Gentz's views on international law and international politics, we hit, first of all, upon the idea of a world state. We know that Gentz favors close commercial and cultural relations between the civilized nations;<sup>83</sup> but he speaks also of a "general state", a "confederation of states", a "*grande association que tous les peuples civilisés*

<sup>79</sup>*H. J.*, 1799, I, 104.

<sup>80</sup>*Ibid.*, II, 143.

<sup>81</sup>Schlesier, IV, 176 f.

<sup>82</sup>*Mém. et lett. inéd.*, 14 f., 31, 38, 81, 86.

<sup>83</sup>Cf. p. 42 f.



*forment entre eux*" or a "*communio eminentissima*" of the nations,<sup>84</sup> and the question arises, therefore, what he really means by using such terms. In other words: was the world state for Gentz a fact, a legal fiction, or a mere ideal of reason? The answer to this question is by no means easy. In general Gentz alternates these three conceptions; in particular, however, he probably favours most the idea of the universal state as a mere goal to be attained by the gradual extension of international law based upon treaties. How much he alternated in this regard may be seen from the fact that he considers the establishment of a federation of the states—first of all of those of Europe—to be a mere ideal in 1799 and in 1800, that he treats it as an actual fact in 1805, rejects it entirely in 1809, and seems to take it to be a fact once more in 1813.

As regards the individual rights and duties of the states in dealing with one another Gentz mentions, above all, the right of independence, of safety, and of honour, together with the duty of international justice.<sup>85</sup> The latter consists for him, however, not only in doing no wrong, but also—and this is important—in helping others to get what is due to them;<sup>86</sup> most emphatically he declares it to be the duty of each and every state to render assistance to those who are forced to defend their rights.

Gentz knows of three means through which he expects the maintenance of an international state of conditions in which the law is reigning supreme; they are: international congresses, the preservation of the balance of power among the European nations, and, as the *ultima ratio*, war.

In itself Gentz would have liked nothing more than to see every European complication settled peacefully and by means of congresses; but for that the time was too

<sup>84</sup>Weick, II, 192, 195; IV, 69; V, 6, 8, 195. *II. J.*, 1799, I, 405. *Mém. et lett. inéd.*, 86. Metternich-Klinkowström, *Österreichs Theilnahme an den Befreiungskriegen*, 251.

<sup>85</sup>Fournier, *Gentz und Cobenzl*, 278, 282, 284. Weick, IV, 66 ff., note; V, 8. *Aus dem Nachlasse*, I, 301.

<sup>86</sup>Fournier, *Gentz und Cobenzl*, 287. *Mém. et lett. inéd.*, 86.



stormy, and thus he refers, before 1815, to this mode of settlement extremely seldom.<sup>87</sup>

The maintenance of the balance of power was for him an idea to which he clung all his life because he believed that he had found in it a panacea for all international complications;<sup>88</sup> he defines it as the grouping of the smaller powers in such way as to neutralize the forces of a paramount state and sees in it the real aim of the art of diplomacy. Should it prove to be impossible to create or to utilize properly this balance of power toward the protection of international rights, then—but only then—diplomacy must give way to force. The *ultima ratio* of all relations between the different states is, therefore, for Gentz too: war;<sup>89</sup> he considers it as being justifiable not only if waged for the defence of a country, but also if undertaken in order to suppress dangerous movements outside one's own state, and proclaims a formal law of intervention.<sup>90</sup>

So much for the political theories of Gentz. There remains, however, one question to be answered, which, until now, has received almost no attention. If the political theories of Gentz, as has been said above, formed the basis of his fight against the Revolution and Napoleon, then they naturally must have been older than this fight; the problem which confronts us now would, therefore, be this: were Gentz's theories really older than his struggle, or did they not rather originate during the conflict?

It must be admitted that this question allows of no solution which would be entirely proof against objections. Approximate solutions of it are, however, quite possible, and they will, ultimately, have to rest on our knowledge of Gentz's relations to Cicero.

A priority of the political theories held by Gentz to his struggle against the Revolution can not be shown from

<sup>87</sup>*Mém. et lett. inéd.*, 63.

<sup>88</sup>Weick, II, 195. *H. J.*, 1800, III, 757 ff.

<sup>89</sup>Weick, I, 68; II, 152 ff.; V, 7. *H. J.*, 1800, III, 775 f., 782 ff.

<sup>90</sup>Weick, II, 194 ff. Metternich-Klinkowström, *Österreichs Theilnahme an den Befreiungskriegen*, 251 ff.

any of his earliest utterances, for there is not a sufficient number of them. Neither has the fact that Gentz knew and admired Montesquieu, Rousseau, Garve and Burke any bearing on the question; to admire a political system does not necessarily mean to accept it, and even by granting this, we would only admit that Gentz, at that time, had accepted the political ideas of these men and could not have had, just for this reason, his own ideas of 1793 and the following years which were rather different. The same may be said concerning his study of natural law at Königsberg and at Berlin.

The attempt to establish this priority would, then, have to be abandoned, had we not at our disposal one bit of evidence which appears to be more or less convincing: Gentz's knowledge and admiration of Cicero of which he himself informs us. We know that he had read the latter's work *De officiis* even before 1789 and that he speaks of the great influence which it had had upon his mind and his character;<sup>91</sup> in 1790, he even incidentally mentions that the book—probably in the Garve edition—forms part of his meager library.<sup>92</sup> Furthermore, in 1793 and in 1794, he refers to or quotes the Roman as an authority.<sup>93</sup> We have, therefore, sufficient indications to permit the hypothesis that Gentz, before 1789, had been essentially influenced and guided by Cicero, and only incidentally by other political thinkers. But it is just these ideas of Cicero's, as the above citations show,<sup>94</sup> which are fundamentally identical with those held by Gentz before and after the year 1789. Comparing the two we may, then, conclude that the political system of the latter did antedate his political struggle, in so far as this is possible in complicated historical questions.

And on this hypothesis Gentz's attitude after 1790 will cease to be a riddle which it must otherwise always

<sup>91</sup>Cf. p. 36.

<sup>92</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 164.

<sup>93</sup>Weick, I, 258 f., note. Translation of Mallet du Pan, 21, note.

<sup>94</sup>Cf. p. 33 f.

be in our eyes. As will be seen later, Gentz was, in the beginning, a friend of the Revolution who was enthusiastic about the sacred principles of liberty and equality. Such enthusiasm he could not have developed on the basis of the teachings of natural law, for this stood for the omnipotence of the government and the preservation of the aristocracy; but such a course would be thoroughly permissible from the Ciceronian viewpoint. If Gentz later turned against equality, it would not necessarily indicate a departure from this standpoint; he may, on more careful consideration, have noticed that Cicero refers, after all, less to equality of rights than to equal protection of rights whatever these might be. In addition to this, Cicero was, of course, the sworn enemy of all excesses such as the Revolution brought with it. It is true that he does not frequently speak of forms of government, whereas Gentz, between 1789 and 1795, considered constitutional government the best; but it is just the relative silence on these points which made it possible for Gentz to yield to other influences without being disloyal to his fundamental principles as well as to the inspirer of the same.

It can, of course, not be denied that the Ciceronian influence on Gentz often coincided with that of natural law; likewise it must be admitted that Gentz's original ideas were, to a certain extent, modified by his reading of Burke and Mallet du Pan, and by the course of the French Revolution itself.

## II. THE STRUGGLE AGAINST THE REVOLUTION

### 1. BEFORE THE STRUGGLE: 1789-1792.

On the right bank of the Rhine there existed already in the years 1787 and 1788 here and there a fear that Europe was on the eve of disturbances; but when the Revolution really broke out in France, even those who had felt such premonitions were surprised. The sensation which the rapid succession of events since 1789 aroused was extraordinary and persisted often for a considerable time after the opening scenes of the great drama.<sup>1</sup> Even in 1793, Archenholz writes in his *Minerva*: "The French Revolution crowds out everything else by reason of its intense interest; the best poetry remains unread."<sup>2</sup> In 1794, Gentz remarks likewise: "The French Revolution is one of those occurrences which belong to all mankind; it is an occurrence of such magnitude that it is scarcely permissible in its presence to be occupied with any lesser interest."<sup>3</sup>

<sup>1</sup>For a better understanding of the following, it is well at this point to recall the chief events of the French Revolution. They are as follows: May 5th, 1789, assembling of the *États-Generaux* at Versailles; June 17th, establishment of the third estate as the National Assembly; July 14th, storming of the Bastille; August 27th, declaration of the rights of man; October 5th to 6th, procession of the mob to Versailles, removal of the royal family and of the National Assembly to Paris; June 20th, 1791, flight of the king to Varennes and his return to Paris; October, 1791 to September, 1792, Legislative Assembly; April 20th, 1792, declaration of war against Austria, and February 1st, 1792, against Holland, England and Spain; May, 1792, actual beginning of the revolutionary wars; August 10th, storming of the Tuileries; August 13th, suspension and imprisonment of the king, Jacobins in power; September 2nd to 7th, massacre of royalists and constitutionalistic prisoners at Paris and in other large cities; September, 1792, to October, 1795, National Convention; September 21st, 1792, abolition of the monarchy; January 21st, 1792, execution of the king; March, 1793, to July, 1794, Reign of Terror; October, 1795, to November, 1799, government of the Directory; October 9th (18th Brumaire), 1799, *Coup d'État* by Napoleon Bonaparte.

<sup>2</sup>August Number, 100.

<sup>3</sup>Translation of Mallet du Pan, pref., xvi.



The enthusiasm for the Revolution in Germany was at first wide-spread; it was, however, not equally intense everywhere, and even where it did prevail, it was subject to considerable variations.<sup>4</sup> The West and the South seem to have been most affected, that is to say, the territory which lay nearest to France and which is even today, the stronghold of German democracy. By the end of 1789 and the spring of 1790 in this part of Germany—especially in the Palatinate, in Hesse and in the ecclesiastical territories on the left bank of the Rhine, in the Black Forest and in many of the imperial cities—even numerous petty revolts broke out, which were, however, subdued without much effort, either by compromise or by force. Toward the spring of 1791, the first enthusiasm had subsided, and then unheard of events followed one another with dreadful rapidity. The result of this was that the number of those sympathizing with the Revolution quickly decreased during 1792-1795. Already the 20th of June, 1791, had caused many to waver; but the 13th of August, the 2nd to 7th and the 21st of September, 1792, the 21st of January, 1793, and finally the whole Reign of Terror made an extremely unfavorable impression. After the fall of Robespierre, the sympathy for the Revolution once more increased and was further strengthened by the victories of Bonaparte in Italy.

The intellectual classes of Germany seem to have been more persistently committed to the cause of the Revolution than any other class; they saw in it a movement which was essential to the progress of humanity and were inclined to ignore its excesses or to excuse them on the ground of circumstances. Gentz complains of this as late as 1794, in the midst of the Reign of Terror.<sup>5</sup> The nobility was, in the main, opposed to the Revolution, which as regards the country districts of Prussia, had great significance. The clergy and the government became, of course, very soon decidedly hostile to all revolutionary tendencies.

<sup>4</sup>Cf. for the following: Wenck, *Deutschland vor hundert Jahren*.

<sup>5</sup>Translation of Mallet du Pan, pref., v.

The attitude of the peasants varied considerably. In the North they remained in general quiet, owing to their natural conservatism, to the influence of the local powers, the landed nobility and the clergy, to their old Prussian instinct for discipline and their geographical remoteness from France. In the West and South, however, there was at first considerable restlessness, as has been previously remarked, especially on account of statute labor and the damage done by game. The peasantry of Swabia remained devoted to the cause of the Revolution down to 1796, and not until the French themselves appeared in the country, did this feeling change.<sup>6</sup> The invasion of the French armies into German territories cooled the enthusiasm for the Revolution also in other districts; the plundering of the imperial city of Frankfort a. M. by Custine made, for example, a deep impression on almost all Germany, particularly of course, on its rich commercial centers. As an illustration of the opinions then prevailing in Germany, we may cite two contemporary judgments, one from the South and one from the North. In 1798 the Swabian Z. L. Huber writes, that there existed in his country, as elsewhere in Germany, three parties: those who were hostile to the Revolution, those who sympathized with it, and finally a middle party. The enemies, he explained, would like to see the Revolution with all its principles and effects nowhere else than in limbo, and in this party he includes first of all the rulers, the governments, and the nobles; the sympathizers, on the other hand, delighted in the Revolution and many of its methods, while the middle party agreed with the principles of the Revolution, but regretted its ways.<sup>7</sup> According to the Hanoverian E. Brandes, there prevailed among the nobles and among many of the officials not only disgust with, but even a considerable fear of, the Revolution; on the other hand, the movement met with sympathy from a minority of the officials and from

<sup>6</sup>Lang, *Von und aus Schwaben*, III, 88.

<sup>7</sup>*Ibid.*, III, 67.

most of the political theorists.<sup>8</sup> As to the particular conditions of Prussia, a modern historian assumes that there the nobility and army were more or less against the Revolution and the middle classes more or less for it, while some of the high officials and not a few of the lower ones felt at least convinced that reforms were necessary.<sup>9</sup>

The centres of this struggle between the conflicting views for and against the Revolution were Hamburg, Berlin and Göttingen in the North, Tübingen in the South, and Jena in middle Germany. At Göttingen, Brandes, Schlözer, and Girtanner had been writing against the Revolution since 1791, while at Tübingen the tireless Posselt was working for it since about 1795. In 1793, there arose a new opponent to the Revolution: the young Frederick Gentz.

If we wish to understand Gentz's position towards the Revolution from the beginning, we must attempt to put ourselves into his state of mind. He was, as has been shown above, strongly interested in the progress of human culture, in justice, freedom, and equality—in the last, it is true, in a rather vague sense—and believed, at any rate later on, that the conditions of pre-revolutionary France were really bad and needed reforming.<sup>10</sup> He heard the mutterings of the French people, but also saw, or thought he saw, that the king and the government were not only ready for such reforms but had even taken steps toward their realization.<sup>11</sup> Of the character of the French nation itself he had, furthermore, a rather high opinion to which he gives expression even in the midst of the struggle. What else, then, could he expect, but that the work of reform would now be completed? It might be completed even though with disturbances, yet without the shedding of blood or the overthrow of law; and it is not improbable that Gentz expected it to be accomplished along the lines recom-

<sup>8</sup>Wenck, *Deutschland vor hundert Jahren*, II, 4.

<sup>9</sup>Wittichen, *Forschungen zur brand. und preuss. Geschichte*, XIX, 6 ff.

<sup>10</sup>Cf. p. 67.

<sup>11</sup>Cf. p. 67 f.

mended by Cicero in the passage which he cited in 1793.<sup>12</sup> That he really did entertain these hopes can, of course, not be proved absolutely.<sup>13</sup> It is true, had Gentz possessed more experience, he could have seen even then that it is wholly impossible to forecast the future in any way so long as events depend upon the multitude and upon its psychology.

In view of this we must, therefore, find it but natural that Gentz at first should have welcomed the Revolution. As Henrietta Herz relates,<sup>14</sup> he was enthusiastic about the cause of freedom even in 1787, and we can follow the course of his sympathy in his letters to Garve down to April 19, 1791.<sup>15</sup> He states that he himself would consider the failure of this movement as one of the greatest misfortunes that ever befell the human race; he defines the Revolution as the "first practical triumph of philosophy, the first example of a form of government which is founded on principles and upon a consistent, logical system." He terms it "an attempt to better humanity on a large scale," or "the greatest work which history can show," and sincerely mourns the death of Mirabeau. But his utterances are soon tinged with a pessimistic undertone, and in April, 1791, he begins to fear that the Revolution may eventually fail.<sup>16</sup>

We have no direct information about Gentz's attitude toward the Revolution during the period between the middle of April, 1791, and the end of 1792, as his letters to Garve from this time are not preserved and other material is not available. We know, however, this much that he followed the events in France with a very watchful eye. As early as 1790 he is reading Mallet du Pan's *Mercur de France*, Mirabeau's *Courier de Provence* and the reports

<sup>12</sup>Weick, I, 258 f., note.

<sup>13</sup>*Ibid.*, II, 45, note.

<sup>14</sup>Guglia, *Friedrich von Gentz*, 98.

<sup>15</sup>There are only a few of them: *Briefe v. u. a. Fr. v. Gentz*, I, 178 ff., 203 ff.

<sup>16</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 205.



of the sessions of the National Assembly.<sup>17</sup> He praises the *Mercur*e with reference to its style, but can not yet agree with its tendencies; three years later, however, he calls the paper the best French publication since the death of Voltaire.<sup>18</sup> The reports received his high praise as first class sources for the study of the Revolution.<sup>19</sup> He mentions also other works and newspapers: Burke's *Reflections*, the *Moniteur* and the *Journal de Paris*, then in a general way, Brandes and Girtanner; of the last two he has no favorable impression, and in Burke he is at the time being pleased only with the form of presentation.<sup>20</sup> His review of the French political literature from August 1788 to June 1789 in the *Historisches Journal* of 1799 shows, however, that in his study of the Revolution he must have consulted many other publications besides those mentioned above; in 1796 he asks the library at Weimar for the privilege of using its literature on the Revolution, and in 1798 the number of newspapers which he is reading and excerpting regularly has grown to many German, five French, and three English ones.<sup>21</sup> The events in France had apparently got a permanent hold upon his mind, as he himself acknowledges in 1790 and again in 1798.<sup>22</sup>

The sympathetic attitude of Gentz toward the Revolution did, however, not last very long, for as early as the beginning of 1793, he appeared as its foe, with the translation of Burke's *Reflections*, and five political treatises from his own pen.<sup>23</sup> The pro-revolutionary utterances which have been preserved of him extend, as we know, not beyond the middle of April, 1791; and since we may assume, on the other hand, that he began his work on Burke and

<sup>17</sup>*Ibid.*, I, 178 ff.

<sup>18</sup>*Ibid.*, II, 40.

<sup>19</sup>Translation of Mallet du Pan, pref., xxvii.

<sup>20</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 203 ff.

<sup>21</sup>*H. J.*, 1799, II, 176 ff. *Briefe v. u. a. Fr. v. Gentz*, I, 206 f., 220 f., 223, note, 224.

<sup>22</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 180, 207.

<sup>23</sup>The two volumes of this work actually appeared at the close of 1792, but bore the date 1793.

the five essays, at latest in the fall of 1792, the change in his attitude toward the Revolution must have taken place in the period determined by these two limits. Exactly when and why it took place is not easy to say, nor is it important. The reading of Burke doubtless had some influence. We have, however, no means of determining the exact extent of this influence as Burke's theories in many leading points—in their marked tendency toward political conservatism, in their emphasis on justice in general and property rights in particular, in their conception of equality, in their indifference to all theories and exaltation of wisdom and experience—correspond exactly with those which Gentz could already have become acquainted with in Cicero or Garve. It is, however, probable that Gentz was not inconsiderably influenced by Burke in his estimate of the events themselves in France, and in his determination to join the ranks of the fighters. The same might be said about a possible influence of Mallet du Pan. Of much greater importance in this regard was the course of the Revolution itself. Gentz soon saw more and more clearly that the movement not only meant no realization of his ideals, but even an increasing deterioration of the existing conditions; he began to doubt the value of liberty and of equality in the sense of their revolutionary interpretation, and the antipathy which thus had gradually been gathering came finally with relative suddenness to a climax. When this stage was reached can not be said definitely. All indications, however, point to the events of the 10th to 13th of August, 1792, as those which brought about the climax; the bloody scenes of the 2nd to 7th of September, and the remainder of that "ever horrible year", 1792, only made Gentz's attitude a permanent one.<sup>24</sup> "The last and most terrible period of the French Revolution", he says in 1794, . . . "began with the horrors of the 10th of August." This opinion was quite correct in so far as those days did mark the

<sup>24</sup>Weick, II, 301, 159. Translation of Mallet du Pan, 45, note, 74, note, 97, note, 142, note.

beginning of what Gentz calls "the systematic overthrow of all social conditions".<sup>25</sup> It was also more or less the opinion of the many German observers of the events beyond the Rhine who after having sympathized with the Revolution finally turned against it. There were, according to Gentz's own testimony, in Germany people professing democracy up to the 5th of October, 1789, to the opening of the Legislative Assembly, to the 10th of August, 1792, to the execution of the King and so on;<sup>26</sup> for the majority of the German democrats, however, this 10th of August marked the turning point in their attitude toward the Revolution.<sup>27</sup>

## 2. 1793—1801.

Gentz was now an enemy of the Revolution and remained so during the next ten years of his life. As his nature would not permit him to be idle under such circumstances, he girded his loins and went forth to battle.

How far he fought the Revolution through the medium of the spoken word is hard to say; our sources are for the most part silent about this. Opportunity for such activity certainly was not wanting to him. During the whole period of this struggle, he was living at Berlin as an official of the Prussian civil service; his position was by no means an important one, but he possessed from the beginning connections and these together with his own resourcefulness won him in time a place in the higher social life of Berlin. Up to 1797, we find in his letters especial references to an intercourse with families of the middle class such as the Ancillon, Spalding, Engel, Gilly, Hainchelin, Merian, Herz and others; names of the nobility are, however, also mentioned, as for instance that of W. von Humboldt. Little by little Gentz's social environment becomes higher, and between 1800 and 1802, he moves in the upper circles of society; he is now acquainted with Prince Louis Ferdi-

<sup>25</sup>Translation of Mallet du Pan, 75, note.

<sup>26</sup>*Ibid.*, pref., xxi.

<sup>27</sup>Lang, *Von und aus Schwaben*, III, 69.

mand of Prussia, with the duke of Braunschweig-Öls, the ambassadors of various foreign powers, such as Lord Carisford of England, Prince Reuss and Count Stadion of Austria, Count Panin of Russia and Brinckmann of Sweden, with Lucchesini, the later Prussian representative at Paris, and with Haugwitz.<sup>28</sup> This undeniable success he owed to a combination of fortunate circumstances. His father was, after 1779, director general of the royal mint, and one of his uncles, an Ancillon, counsellor of the consistory in Berlin. Moreover, he had patrons and friends who boomed him socially, such as Captain von Schack, Brinckmann, the Swedish envoy, and the Marquise of Lucchesini.<sup>29</sup> Finally, we must here take into account his own social talents, his growing reputation and his lavish expenditure of the money extracted from the coffers of the British foreign Office and the treasuries of helpful people in general. But, whatever Gentz, in these circles, may have done against the Revolution, the centre of his anti-revolutionary activities lay certainly elsewhere: in his anti-revolutionary publications. The first of these, as noted above, were his translation of Burke's *Reflections* and the five essays *Übel politische Freiheit; Über die Moralität in den Staatsrevolutionen; Über die Deklaration der Rechte; Versuch einer Widerlegung der Apologie des Herra Makintosh; and Über die Nationalerziehung in Frankreich*. In 1794 his translation of Mallet du Pan's work on the French Revolution appeared; likewise, in 1795, that of a part of Mounier's "The Causes which have hindered France from attaining Freedom," and in 1797 a translation and continuation of d'Ivernois' "History of the Financial Administration of the French Republic during the year 1796." Independent works were: *Über die Grundprincipien der jetzigen französischen Verfassung, nach Robespierre's und St. Just's Darstellung derselben*

<sup>28</sup>Schlesier, V, 24 ff.

<sup>29</sup>According to Gentz himself, it was she who introduced him into upper Berlin society (*Festschrift zu Gustav Schmollers 70. Geburtstag*, 249); but perhaps he here simply desires to flatter.



from 1794, *Über den Ursprung und Charakter des Krieges gegen die französische Revolution*, and *Von dem politischen Zustande von Europa vor und nach der französischen Revolution*, the last two both from 1801. Finally, there are to be mentioned two periodicals which were mostly written by Gentz himself, the *Neue deutsche Monatschrift* and the *Historisches Journal*. The *Historisches Journal*, the more important one, was purely political and financial in content and appeared from 1799 to 1800. The work on the history of the French Revolution, upon which Gentz worked during the nineties, has never been printed; it exists, however, as a manuscript ready for print, and consists of five volumes.<sup>30</sup> Of all publications, the series of articles in the *Historisches Journal* of 1799, bearing the titles *Über den Gang der öffentlichen Meinung in Europa in Rücksicht auf die französische Revolution*, and *Betrachtungen über die Entstehung der französischen Revolution*, give the clearest insight into Gentz's views about the causes and the first period of the Revolution.

In these nineties falls also the beginning of Gentz's connections with foreign governments and personages, which from then on played an ever increasing rôle in his life. We know already that he gradually became acquainted with various foreign representatives accredited to the court of Berlin. His relations with Austria began through his sending the translation of Burke to Emperor Francis; later he received the permission to sell copies of his *Historisches Journal* in the Austrian duchies.<sup>31</sup> He must also have come into touch with leading men in Russia, for in May 1800 his diaries speak of his receiving a present from the Czar.<sup>32</sup>

The first establishment of relations with England followed in 1795; Gentz published in his *Neue Deutsche Monatsschrift* a translation of a portion of d'Ivernois' study on republican finance which aroused Pitt's interest

<sup>30</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 245, 246, note 1.

<sup>31</sup>Guglia, *Friedrich von Gentz*, 137.

<sup>32</sup>*Tagebücher* I, 1.

and caused him to urge the author to continue his work.<sup>33</sup> 1799 Gentz presented to the English secretary of state, Lord Grenville, an article which had appeared in the *Historisches Journal* and dealt with Pitt's financial policy; he added the request that the article be laid before the King. Grenville replied with a letter and a check.<sup>34</sup> November, 1800, Gentz sent two memorials to London. In the first he pictures the condition of popular opinion on the Continent toward England; in the second he offers his services to the English government as journalistic representative, and this offer seems to have been accepted.<sup>35</sup> In October 1802, Gentz went himself to England, where he remained some three months. His personal success was great;<sup>36</sup> but this was only natural, for he was peculiarly fitted for the life of the then existing English society: he had the instincts of the grand-seigneur, was a brilliant conversationalist, and could endure any amount of the gay life. He himself was in a perfect rapture, for he felt, for the first time, the delicious inspiration of satisfied ambition; for a brief moment he mingled with the mighty as an equal. At the same time he reached an agreement with the British government; it has never become known what instructions he received, but in general he was expected to act as an English agent on the continent.<sup>37</sup> If this step later brought him under suspicion, it must be said that he by no means intended bartering his convictions; this he never did, not even under the most trying pressure. English policy was, after all, in its main features, only the one advocated by himself, for it aimed at France, and he really believed that in serving England he was serving Europe. That he accepted remuneration for his services was not only quite proper but even necessary: for without sufficient funds he could never hope to

<sup>33</sup>Schmidt-Weissenfels, *Friedrich Gentz*, I, 84.

<sup>34</sup>*Preuss. Jahrb.*, CX, 466.

<sup>35</sup>*Ibid.*, CX, 467.

<sup>36</sup>Schlesier, V, 28.

<sup>37</sup>*Preuss. Jahrb.*, CX, 468.

gain entrance into those circles by which the course of foreign policies was shaped.

A number of causes contributed to make of Gentz thus, by degrees, a rather many-sided personality. Gentz had, as we know, an inborn and increasing interest in politics, and that he could, as a Prussian subaltern, not practically indulge; he seized, therefore, the only way which offered an outlet for his feelings: the pen. Furthermore, he was ambitious and of very luxurious inclinations; how was he to satisfy these tendencies in the service of the Prussian state where, as he explains to Adam Müller, he could only hope to reach the position of privy counsellor of finances, carrying a salary of two thousand thaler?<sup>38</sup> And was writing not a positive pleasure to him which he could never long forego? If he industriously wove at the net in which his fortune was to become entangled, he did in this certainly not think of himself alone, nor even principally: all the various lines of his activity were, after all, converging toward the one aim of opposing the Revolution, and this opposition he regarded as a sacred duty which had to be fulfilled whatever one's own inclinations might be.<sup>39</sup> Not that he expected certain results of his efforts, for these, he thought, were, in the flood of pro-revolutionary writings, somewhat doubtful and uncertain.<sup>40</sup> But he wished to do his part to further the good cause; it might, perhaps, be of some use and bear unexpected fruit.

In how far Gentz here allowed himself to be influenced by Burke it is hard to say, but the latter's example can hardly have been entirely without effect. Gentz himself seems to point to the existence of such an influence, for in the introduction to his translation of Burke we find the passage: "In most of the important proceedings of his time, Burke was an opponent of the ministry, because the influence of the court extended beyond the proper point

<sup>38</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 369.

<sup>39</sup>Weick, I, 2, 14, 18. Translation of Mallet du Pan, pref., xiv ff. xix.

<sup>40</sup>Weick, I, 7-14.

of equilibrium, because it threatened to annihilate or to weaken the power of the representatives of the people. Burke took up the cause of the Americans with a warmth which he may well thank for much of his great name; because they were, although they were Britons, denied the British constitution, because he found according to the maxims of true British polity that their demands were just; because he divined the strength of their opposition and the probable outcome of the unfortunate war which was forced upon them, with more accuracy than a blinded ministry did."<sup>41</sup> That which Gentz praises in Burke applied equally well to himself: one has only to recall his stern standpoint of justice, his initial sympathy with constitutions, and his later opposition to Cobenzl, against whom he also hurls the word "blinded;" he fights, it is true, not against but for the preponderance of court influence. It is, therefore, quite possible that Gentz took up the fight against the Revolution—which from his point of view was preeminently a struggle for the right—inspired, among others, by Burke, especially since he had learned from the latter's career, what a name could be won by championing the right.

Not much more certain is the influence which Mallet du Pan may have had on Gentz. Gentz and Mallet stood, since 1793, closely enough together in their political views. Both rejected the principle of popular sovereignty and fought for a stronger government; on the other hand, they were indifferent as to the particular form of the latter. Both corresponded with ministers and kings, both published periodicals and had close relations with England. These parallels could even be followed into the personal characters of the two men, for each was possessed of a marked preference for order and moderation in every thing, of a strong feeling of independence and a pronounced antipathy against all that was loud and violent. If one adds to this that Gentz repeatedly mentions Mallet in his

<sup>41</sup>*Ibid.*, I, 22.



letters,<sup>42</sup> that he translated or reviewed certain of his works,<sup>43</sup> that his *Historisches Journal*, according to his own testimony, was suggested and inspired by Mallet's *Mercuré Britannique*,<sup>44</sup> finally that in 1799 he corresponded with the then exiled pulicist,<sup>45</sup> the existence of an influence upon Gentz may seem to be rather probable. The exact extent of this influence, it is true, cannot be determined with certainty; only in the following point do we find ourselves, perhaps, upon firm ground. Mallet was from about 1793 on, for a number of years, the confidential adviser of various governments at war with the Revolution and sent, up to 1798, political reports to the courts of Vienna and Berlin; in 1800 he died. In this same year 1800, Gentz definitely offered the English government his services as publicist, and reported about the political situation on the Continent. It is, therefore, not altogether improbable that the latter cherished the hope that the mantle of the dead Mallet might fall upon him.

How, we may ask, does Gentz picture the Revolution to himself and what has he against it?

If we begin with the origin of the Revolution, we encounter first his distinction between its remote and its immediate causes; the former, Gentz terms the "conditions of possibility," the latter, "the conditions of reality."<sup>46</sup> The distinction is historically well-founded, and forms the basis of Gentz's general attitude toward the Revolution. He is convinced that France stood in absolute need of reforms, but that on the other hand, the Revolution, as it actually took place, could and should have been avoided.<sup>47</sup> The proper way to solve the difficulties as it then seemed to him was, as he once expresses it afterwards, by means of a "gentle revolution."<sup>48</sup>

<sup>42</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 179 f., 255.

<sup>43</sup>*H. J.*, 1799 and 1800.

<sup>44</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 327.

<sup>45</sup>*Ibid.*, 326 ff.

<sup>46</sup>*H. J.*, 1799. I, 38, 196.

<sup>47</sup>*Ibid.*, I, 198 ff., 229 ff.

<sup>48</sup>Translation of Mallet du Pan, 33, note.

Gentz describes the conditions of pre-revolutionary France with the instinct of the objective historian who is concerned above all with the establishment of the truth. On civilized Europe as a whole, he passes the judgment that before the Revolution it had reached an astonishing degree of perfection and was justified in still hoping for far more.<sup>49</sup> As its centre he considers France,<sup>50</sup> which, therefore, necessarily had its share in this high attainment of European civilization. That everything there was not what it should have been, he does not fail to recognize. He points out especially the bad system of taxation of the country; aside from this he mentions the subordination of agriculture to the interests of industry and the already decidedly appreciable overpopulation, as it seemed to him.<sup>51</sup> To the *lettres de cachet* he attaches, however, but small importance.<sup>52</sup> His judgment of Louis XVI is all in all a favorable one; he cannot, however, forbear to blame the weakness of the king, who did not rise to meet the situation.<sup>53</sup> He points out with special emphasis that monarch and government were sincerely ready for vital reforms; Turgot, he explains, proposed reforms "such as had never been conceived upon a throne."<sup>54</sup>

When, in spite of all, the Revolution came, the blame lay, according to Gentz, on what he terms the "conditions of its reality." He assumes that grave mistakes were made on all sides, by the king, by the government, by the representatives of the people, and finally by the people themselves. The greatest blame he lays, to be sure, to the score of the people and their representatives. The government fell short in that it neglected to suppress the general spirit of discontent, and to direct it by wise counsels into proper channels,<sup>55</sup> but above all, in that it showed lack

<sup>49</sup>*II. J.*, 1790, I, 18.

<sup>50</sup>Translation of Mallet du Pan, pref., xvii.

<sup>51</sup>*II. J.*, 1790, I, 208 ff.

<sup>52</sup>*Ibid.*, I, 215 f.

<sup>53</sup>*Ibid.*, I, 272 ff.

<sup>54</sup>*Ibid.*, I, 220, 235 ff., 203, 304 f.

<sup>55</sup>*Ibid.*, I, 31 ff.

of foresight and weakness.<sup>56</sup> When the government, as was the case, encountered perpetual opposition, it was its proper duty to break this opposition; but this it never attempted, much less accomplished.<sup>57</sup> The calling in of the estates of the realm was a good idea, for it was necessary, financially and otherwise; unfortunately, however, the government failed to regulate in advance the form of the deliberations, and thus made possible the chaos which almost immediately arose.<sup>58</sup> If we turn to the other side, we find Gentz pointing particularly to the influence of the revolutionary literature, to the attitude of the National Assembly, and the activity of the revolutionary leaders.<sup>59</sup> He is inclined to attribute to the leaders a large part of the blame. But the people too he finds blameworthy. "When the Revolution of 1789 approached," he writes in 1799, "the amiability of this nation [the French] had to a large degree disappeared . . . . A deeply rooted discontent, a restless longing for destructive novelty had taken the place of the old peaceful good nature . . . . The frame of mind of the entire nation had grown more hostile, gloomy, brooding, and tragic. The Revolution bore in its approach, in its outbreak, and in its whole course, the stamp of this mood, [a mood] "which superficial observers considered a result of that tremendous event, but which held priority over that event and was rather one of its causes."<sup>60</sup> It is true, Gentz does not overlook the fact that one of the causes of the Revolution lay, in a certain sense, within the revolt itself, insofar as every one of its events advanced its development just one step farther.

The object of Gentz's special antipathy were the revolutionary leaders, for they, of course, were the rebels *par excellence*. Sieyès was to him the chief figure of the early Revolution;<sup>61</sup> Marat, on the other hand, probably the most

<sup>56</sup>*Ibid.*, I, 298, 321; II, 30, 55 ff., 245.

<sup>57</sup>*Ibid.*, I, 301.

<sup>58</sup>*Ibid.*, II, 15 ff., 25 ff., 56 ff.

<sup>59</sup>*Ibid.*, II, 138 ff., 172 ff. Translation of Mallet du Pan, pref., xxiv.

<sup>60</sup>*H. J.*, 1799, II, 160 ff.

<sup>61</sup>*Ibid.*, II, 297, 306 ff. Translation of Mallet du Pan, 66 ff. note.

horrible product of the whole revolutionary era.<sup>62</sup> Gentz's judgment of Rousseau was not always exactly the same. We know that he was, at one time, deeply interested in this personality and had found refreshment in the depths of its sentiment; it was in those early years when his emotional heart was still able to give itself up unreservedly to friendship and to the quiet enjoyment of nature. This reverence for Rousseau lingered down to 1792; Rousseau, Gentz still thinks, portrays the simplicity, the purity and the bliss of the true man of nature, and in that consists the real tendency of all his ideas.<sup>63</sup> Quite different from this, however, is his judgment in 1794. Now he regards Rousseau from a purely political viewpoint, and thus the man whom he had previously so highly respected has now become an object of antipathy, almost of the most bitter hatred. But how could it have been otherwise? Rousseau's name was in the mouths of all enemies of the old system, he was the father of the doctrine of the unconditional popular sovereignty and was himself a man of the people, of large ideas and an excess of feeling, but, in a general sense, vulgar as well. Small wonder, then, that Gentz now hated this man and hurled at him the charge that out of his school all the French revolutionists from Sieyès to Marat had issued, and that to his fingers the innocently shed blood of the victims of the Revolution was sticking.<sup>64</sup>

The distinction between momentary and permanent causes of the Revolution made it hard for Gentz to find a definite beginning for that period. He considered the great turning point of events to be the second half of the year 1792; what happened in those bloody autumn days made him forever a foe of the new era. But where was the beginning? It was hard to name an entirely certain point in time, consequently Gentz lays the emphasis now on one and now on another of the eventful days of the summer of 1789: on the 17th of June, the 14th of July, the time from

<sup>62</sup>Translation of Mallet du Pan, 92, note.

<sup>63</sup>Weick, I, 138 ff., note.

<sup>64</sup>Translation of Mallet du Pan, 20 ff., note.



July to October, and on the 5th-6th of October. In 1793 he declares that the originator of the system of double representation for the third estate was the real cause of the Revolution, and names in this connection Necker;<sup>65</sup> since Necker proposed this idea to the royal council on the 17th of December, 1788, the real beginning of the Revolution would then be this day. Somewhat different is the dating which Gentz presents in the same year in reviewing the statement of the Scotch writer Makintosh. Here he mentions especially the 5th of May, the 17th of June—according to him it had been the 15th of June—and the 14th of July, and assumes that the Revolution was perfected through the sanction, by the National Assembly, of the storming of the Bastille.<sup>66</sup> In 1794 he sees the source of all the excesses of the Revolution in the activity of the National Assembly from July 1789 to the meeting of the Convention.<sup>67</sup> In 1799 he returns, in a certain sense, to the 17th of June—no longer the 15th—and declares that this day marked “one of the greatest and most fearful epochs in the history of mankind.”<sup>68</sup>

Gentz never really attempted to fix the date of the end of the Revolution. In 1794 he still believed it to be coming;<sup>69</sup> but soon he drops such speculations. In 1798 he even fears that the Revolution may extend into eastern Europe.<sup>70</sup> With the *Coup d'État* he again indulges in hope, only soon after to let it fall again:<sup>71</sup> he could, after all, not eternally close his eyes to the fact that Bonaparte was not only the conqueror of the Revolution, but also the heir.

As to the significance of the Revolution as an historical event of the first magnitude, Gentz was never for a moment in doubt. As evidence of this we may cite a word to be

<sup>65</sup>Weick, I, 84, note.

<sup>66</sup>*Ibid.*, II, 116-128.

<sup>67</sup>Translation of Mallet du Pan, pref., xxiv ff.

<sup>68</sup>*H. J.*, 1799, II, 308.

<sup>69</sup>Translation of Mallet du Pan, pref., xxxiii f.

<sup>70</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 210.

<sup>71</sup>*Cf.* p. 86 f.

found in the introduction to his translation of Mallet du Pan, which throws, at the same time, a highly characteristic light upon his entire attitude toward this event.<sup>72</sup> He writes there: "The French Revolution is one of the facts which belong to the whole human race. It is an event of such magnitude that it is hardly permissible to be occupied with any petty interest in its fearful presence, of such magnitude that posterity will be curious to know how people of all countries who lived at the close of the 18th century thought, felt, reasoned and acted about it. Even if it had exercised no direct influence upon other nations, it would still deserve the entire, lasting and eager attention of the world because it hit the most notable of all civilized countries, the true centre of Europe, from which proceeded the entire external culture, and most of the inner culture, of our hemisphere, because it promised a constitution—the most desirable thing which thinking beings can wish for—for a society of 25 millions of the most active, cultured, enlightened, talented, clever and good-natured people, and because, although from its inception to the present time it has been nothing but one great departure from its glorious aim, it had at least to furnish the largest mass of experiences out of which the theory of statesmanship has ever been developed, corrected, and confirmed."<sup>73</sup>

Gentz emphasizes at times how infinitely complicated the developments of the events in France had been. But the chaos there does not seem to him to be completely hopeless; he distinguishes between the essential and the necessary phenomena, and sifts from the mass of material that which he terms "the leading principles" of the Revolution.<sup>74</sup> Against these he directs his chief attacks.

What, then, are the fundamental principles of the Revolution, as seen by Gentz?

In 1793 he gives not yet any really comprehensive statement of his views; the list of his *gravamina* against the

<sup>72</sup>Of 1794.

<sup>73</sup>Translation of Mallet du Pan, pref., xvi ff.

<sup>74</sup>*Ibid.*, pref. xxiii f. *H. J.*, 1799, II, 335 ff.

Revolution is, however, long enough. He emphasizes the great danger with which Europe is being threatened from the West.<sup>75</sup> Furthermore, he accuses the Revolution of fanatical intolerance, of disregard for property, of vanity and hypocrisy, love of destruction, general lawlessness, irreligion and a deeply rooted hatred of everything lofty, even of the aristocracy of spirit.<sup>76</sup> The object of his special antipathy is, of course, the principle of the sovereignty of the people. In his treatises of 1793, there is scarcely a page on which the words "liberty" and "equality" are not made the object of bitter criticism. Gentz thinks that he is laying his finger at the very root of all the evil, when he says: "There can be no absolutely incurably sick person, save he who takes pleasure in his pains. This is, however, the real condition of the French people. Every suffering is sweet to them, if they only can dream of their self-government. Their happiness is the happiness of a madman who does not feel the whip of his jailor because he considers himself the King of Kings. If one goes to the bottom of this political dreaming, then the garment of a few high-sounding phrases disappears; and what remains is—the fanaticism of vanity."<sup>77</sup>

On the declaration of human rights, Gentz expresses himself in 1793, and then again in 1800, both times in the same tone.<sup>78</sup> His judgment is exceptionally unfavorable. The very idea of such a declaration displeases him exceedingly; for the enumeration and classification of the simple human rights, he thinks not only hardly possible, but, if actually attempted, dangerous. He considers it an absolute error to term these fundamental rights, the "rights of men and citizens." A combination of this kind is, according to him, nothing but an absurdity. Of the separate articles of the declaration, scarcely a single one is left unattacked, and special emphasis is laid upon the fact that the so-

<sup>75</sup>Weick, I, 20.

<sup>76</sup>*Ibid.*, I, 15 ff., 186 ff., note, 257 f., note, 312, note, 281, note; II, 34.

<sup>77</sup>*Ibid.*, I, 257 f., note.

<sup>78</sup>*Ibid.*, II, 61 ff., *H. J.*, 1800, I, 58, ff.

called "natural rights" are, in this case, only the result of a great number of compromises. Gentz does not fail to admit that the declaration, as a whole, had been of great historical importance, but it can be imagined of what kind he conceived this importance to be; as a matter of fact, he unhesitatingly attributes to this declaration a great part of the general anarchy which followed it.

Extremely severe is the judgment passed upon the Revolution by Gentz in 1794. The list of sins which he attributes to it in the introduction and the notes to his translation of Mallet du Pan has now become a formidable one, and one cannot help being struck with Gentz's intense hatred of the revolutionary leaders. He refers to the daily executions, to the murder of the royal family, the atheistic temples, the cult of Marat, the revolutionary tendency to worldiness, the destruction of the Vendée and the city of Lyons, to the superficial speculations and the self-complacency of the tribunes of the people, to the increasing plundering of the rich, the disregard of all morality and the tearing down of everything lofty, adding not without a certain bitter satisfaction that there it could at last be seen to what the "madness and perversity of an unrestrained people" would lead.<sup>79</sup> References to the cruelty and phrase-mongering, to the vanity, the lawlessness and general vulgarity of the revolutionary movement and its leaders are in fact to be found almost everywhere.<sup>80</sup> Incidentally, Gentz now and then sums up these characteristics of the Revolution in a single word, and speaks of "mob-tyranny," or of "the systematic reversal of all social conditions."<sup>81</sup>

In his *Historisches Journal* of 1799, Gentz exhibits, to a certain degree, the assurance of one who has had the satisfaction of seeing his warnings justified by the course of events. Here, too, he speaks of the injustice and tyranny

<sup>79</sup>Translation of Mallet du Pan, pref., vi f., x.

<sup>80</sup>*Ibid.*, 25 f., note, 56, note, 94 ff., note, 150 f., note.

<sup>81</sup>*Ibid.*, pref., xii, 74 f., note.



of the Revolution, of its harshness against the upper classes of the earlier era, of its hostility towards the property-holders and, above all, of its fundamental principle of the sovereignty of the people.<sup>82</sup> As to the revolutionary literature, he criticizes its entire lack of consideration of individual rights, its tendency to go to extremes and the desire for novelty, its discrediting of the value of moderation and experience, its lack of historical sense and, as is to be expected, again, its doctrine of popular sovereignty.<sup>83</sup> He repeats the idea expressed already in the manifesto of the allies of the year 1792, and later on by Mallet, that the Revolution was equivalent to a relapse toward barbarism.<sup>84</sup> With especial satisfaction, however, he mentions the report of the commissioner François of June 21, 1798, in which the Directory is charged with having suppressed all and every form of freedom in France, the political, civil and personal liberty, the freedom of thought and the safety of property.<sup>85</sup> Likewise, he refers to the report of commissioner Trouvé of August 30, 1798, for in this he finds a description of the conditions in the Cisalpine Republic, such as from his standpoint he could not wish any better. According to Trouvé, there existed in this state "a government without means and strength, equally powerless to accomplish the good and to prevent the evil, an ignorant, wholly pernicious administration, a military equipment which despite its immense costliness is of no value at all, a complete disorganization of finances, no republican institutions, no public education, no connection existing between civil laws, on all hands disobedience, indifference, unpunished waste of public money, in a word, the most complete and most horrible anarchy."<sup>86</sup> These then were the alleged blessings of the Revolution!

To the relations of the Revolution to other powers,

<sup>82</sup>*H. J.*, 1799, I, 57 ff., 343, note, II, 145 ff., 464 f.

<sup>83</sup>*Ibid.*, II, 138 ff.

<sup>84</sup>*Ibid.*, I, 29 f., note.

<sup>85</sup>*Ibid.*, II, 431 ff.

<sup>86</sup>*Ibid.*, I, 338 ff.

Gentz did not give, for a long time, any mentionable attention, other than to fear an invasion of Europe by revolutionary principles. The war which had been dragging on since 1792, he still regards even in 1794 as, on the whole, of little importance. It has not yet brought any success to the allies, and cannot be carried on with much more energy; therefore, Gentz concludes, it would probably be best to let France alone.<sup>87</sup> The volcano in the West, however, did not burn out; on the contrary, the danger to Europe became more and more serious. The year 1796 brought the invasion of Jourdan and Moreau into central and southern Germany and Bonaparte's brilliant campaign in Italy; 1797, the peace of Campo Formio and the opening of the Congress of Rastadt; 1798, the French occupation of Rome, the intervention in Switzerland, extensive French preparations for a landing in England, and Bonaparte's expedition to Egypt; finally 1800,—after French reverses in 1798—two victories that, according to Gentz, were the most brilliant which the revolutionary armies ever had gained.<sup>88</sup> By the end of 1800, France had thus reconquered its great European position of former times. It now stood at the head of a confederation which embraced almost the whole of southern Europe; the landmarks of the Republic had been advanced to the Rhine and at its head stood—Bonaparte, in Gentz's opinion the first really significant man of the Revolution.<sup>89</sup> Besides, the great problem of the new territorial arrangements to be made in Germany, the result of the peace of Lunéville, demanded a settlement, and that France would have a hand in this could not be doubted for one moment. Apprehensive watchfulness had now apparently become imperative, since the Revolution had ceased to be a mere intellectual danger.

The first indications that Gentz was aware of this are to be found in two letters to Garve of March and April, 1798.<sup>90</sup> French politics, he writes to this still highly re-

<sup>87</sup>Translation of Mallet du Pan, pref., xxxiii ff.

<sup>88</sup>Weick, II, 333.

<sup>89</sup>*Ibid.*, II, 372, note.

<sup>90</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 206, 210.

spected friend, have now risen to "such tremendous importance" that one cannot avoid devoting to them doubled attention. The year 1798 is even now the most significant of all the years of the revolutionary era, and still greater things are yet to be expected: the outcome of the expedition against England will decide the fate of Europe; if it succeeds, and if within the next six months no new continental war breaks out, then the tricolor will be waving at the Vistula even before the close of the century. Europe seems destined to encounter in this present year fresh storms and further destruction, and the end of the Revolution is not yet in sight. The mention which Gentz makes here of a doubled attentiveness to the events in the West was not merely a passing idea; he indeed does become absorbed more and more in the increasingly complicated international affairs of Europe. Already the *Historisches Journal* of 1799 contained several articles on the matter, and in the following years Gentz is well-nigh given up to the study of these new problems. He feels that the first act of the great drama is ended; if he previously has hoped that the Revolution would consume itself, he now realizes definitely that this can no longer be thought of.

The picture that he draws of the European situation in the second half of 1800 must, therefore, unavoidably be a gloomy one.<sup>91</sup> The war had now lasted eight years, for eight years he himself had fought for the good cause, and yet—what had been achieved! The Revolution was not yet ended; on the contrary, it had established itself in the European family and was more dangerous than ever. For a moment, it is true, Gentz believed that the *Coup d'État* meant its formal conclusion.<sup>92</sup> But he soon abandons this hope, and even while entertaining it, he expected far more for the internal conditions of France than for the relations of that country to the other powers; for these he regards, even after 1799, only with suspicion and concern. What

<sup>91</sup>*II. J.*, 1800, II, 394 ff., III, 788 ff.

<sup>92</sup>*Cf.* p. 86f.

would the future bring? France, he thinks, has been, to the present, the centre of Europe and will continue to be so for some time to come; as long as it retains its spirit of restlessness and of military aggression, Europe will have to tremble. The era of blood is then not yet at an end; the French sword but rests in the scabbard, and this scabbard may be thrown aside at any moment. A warrior state has established itself in the western part of the Continent whose finances are, it is true, irreparably ruined, whose expansive powers, however, remain unweakened; its trade is war, and without war it cannot exist. And the present? It is bad enough. The Revolution, Gentz states at the end of 1800, has destroyed the old political system of Europe, it has altered the beautiful balance of power among the nations, has set might above right, has made war universal, and has accustomed the world to usurpation and violence. The path to peace leads through numerous further struggles, and that, he concludes, "is the sad legacy with which the closing eighteenth century endows the present generation, and perhaps many a one to come."

As to the secret of the republican successes, it is evident that a problem so eminently practical necessarily made a strong appeal to a man such as Gentz. He touches upon it more than once, most extensively in his work, *Über den Ursprung und Charakter des Krieges gegen die französische Revolution*, published in 1801, where he expresses himself as follows.<sup>93</sup> He begins with a reference to the very favorable strategic position of France, to the fertility of its soil, to its wealth and the efficiency of its inhabitants; this, he thinks, explains the riddle in part, but, it is true, by no means fully. In the last analysis, he finds, the republican successes can be explained only from two causes, from the spirit of the Revolution itself and from the mistakes of its enemies. In how far, then, from the Revolution itself? Not, perhaps, to the extent which would have been true if really great talents had been

<sup>93</sup>Weick, II, 306 ff., 371 ff.



at its disposal; Gentz is at best ready to grant that the Revolution produced military talent. It was brought about by parvenus and mediocre intelligences, and did not until Bonaparte appeared give birth to any really great man. Of the military talents existing within the nation it did make full use, and in this lies one of the causes of its success. It has further carried on the war in an entirely new fashion, which will now have to be adopted by other European powers. The resources of France were put to the severest test and, in many regards, exhausted for a long time to come, but despite all waste, it supported itself and withstood the attack from all sides, for in time it had learned the lesson that a war could be carried on even without money. Wherever it went, it found the soil ready for its seed: everywhere it met partisans, its first blow fell upon a disunited Germany, and the terror which preceded its coming did the rest. Above all, it is true, the Revolution stirred up the enthusiasm of the French people. Even though this might fluctuate, it never really died out; at any rate it sufficed, as conditions then were, since the enthusiasm of the allied troops always remained within narrow bounds. The country had to be saved, the world to be freed and avenged, and the conspirators to be punished; forward, then, in the name of freedom! Who could resist such an appeal? And thus the armies of the Republic marched against the enemy, poorly drilled and poorly clothed, but surrounded by and filled with the magic of the revolutionary faith, until gradually there arose a new and equally powerful agent of victory: the ambition of invincibility. In spite of all this splendid energy of the Revolution, however, its success, Gentz assumes, never would have come to pass, if the Coalition had not made the gravest mistakes. An iron destiny had brought this great crisis upon Europe; it was a case, therefore, of either submitting to it or of putting everything at stake against it. The Coalition chose the policy of resistance, but did not throw all its energies into the struggle; it blundered in its choice of the moment for opening hostilities, it underrated the

resources of the enemy, possessed no military leaders of real significance and came to no concerted action. The result of it all, naturally, was in keeping with the effort.

But what now? This was, after all, the paramount question. Should the fight go on, or was it better to let things take their own course? Gentz is for the former. But he does not look for success as long as the old methods are adhered to; new ways and means must be tried, and such he believes to have discovered.<sup>94</sup> The course of the revolutionary wars has shown to him what could be done by a nation that was ready to make any sacrifices; he demands, therefore, that the example given here be followed. Let public enthusiasm be exhorted, be aroused; let the revolutionary arguments be met in print, through sermons and popular instruction; let the unfit be eliminated and the talented be supported; and change the methods of warfare! But this, he thinks, will by no means suffice. What is needed, above all, are coalitions that will carry on the war with republican energy and will be strong enough to insure success. But what coalitions should these be? Gentz has in mind, especially, one between Austria and Prussia, for this, if once consummated, would not only in itself represent a formidable combination, but would also bring about the union of the whole of Europe outside of France. Prussia must give up its neutrality, this then is the advice which Gentz now gives, disagreeing entirely with his earlier tendencies. In 1797,<sup>95</sup> and even in the beginning of 1799,<sup>96</sup> he still recommended to Prussia a policy of reserve. In May, 1799, however, he seems to wish a more or less decisive and warlike line of action on Prussia's part;<sup>97</sup> in 1800, he censures Prussia's attitude during the previous year,<sup>98</sup> and in 1801, he finally comes out openly in favor of

<sup>94</sup>Weick, II, 355 ff., 367 ff., 373 ff., *Von dem politischen Zustande von Europa vor und nach der französischen Revolution*, cf. Guglia, *Friedrich von Gentz*, 168 f.

<sup>95</sup>Weick, V, 7, 9.

<sup>96</sup>*Briefe v. u. d. Fr. v. Gentz*, I, 323.

<sup>97</sup>*Ibid.*, I, 332.

<sup>98</sup>*Histor. Zeitschr.*, LXXXIX, 245 ff.

the Austrian-Prussian coalition. He is even ready to consent to a temporary suspension of the imperial constitution, if thereby a better use could be made of Germany's powers; at the outbreak of the revolutionary war, or at least during it, he thinks, the Emperor should have been officially clothed with the provisional powers of a dictator for the southern half of the "Empire", and the king of Prussia likewise, for its northern half.<sup>99</sup> That in the future such states as Switzerland should be allowed to remain neutral he considers improbable; at any rate, he himself would not be able to approve of such a policy. Whoever, he declares, does not join the cause of justice of his own free will, can and must be forced to do so; for in situations like the present, there is but one right to be recognized, that of necessity.

It was for Gentz a matter of course that the one power to which, before all others, he looked for help, England would in time unite itself with this continental coalition. This is even a matter of the heart with him. For, whenever he speaks of England, he speaks of it only in hyperboles: the rock of justice, the home of religion and of reverence for the customs of the fathers, the starting point of all beneficent and truly cosmopolitan undertakings, the centre of industry and trade, and the born and permanent ally of the well understood interests of all nations—all this and more England seems to him.<sup>100</sup> That it was also possible to hear quite different remarks about this same England, is not unknown to Gentz, for he too has heard them; but he purposes to show that such words are but stupid or malicious calumny.<sup>101</sup> What then were the charges against England? A monopoly of industry and trade, the starvation of the Continent, the destruction of the freedom of the seas? Gentz does not deny that England now, at the end of the century, does possess a monopoly of industry and trade and a supremacy over the seas; most emphatically he

<sup>99</sup>Weick, II, 369 f.

<sup>100</sup>*H. J.*, 1800, III, 492 ff.

<sup>101</sup>*Ibid.*, 1799, I, 395-439; III, 380 f.; 1800, III, 496 f.

contends, however, that the British power does not threaten the rest of Europe outside of France, and calls special attention to the fact that this power was only the direct result of the Revolution itself. The line of argumentation used by him to support this standpoint is about as follows: 1. The English industrial and trade monopoly, and the English maritime supremacy are chiefly the consequences of the hopeless inner conditions of France, and, only to a subordinate degree, of the ability of the English themselves; 2. England cannot mean to wish the poverty of the Continent in its own interest, for poor neighbors are also poor customers; 3. England, will, because of its high development and its lofty principles, never become "really menacing" to any state; 4. a substitution of France for England would not be advantageous for the interests of Europe; the destruction of the English position, without at the same time providing for a compensation, would even be a calamity; 5. the ideal condition would be that of an equal apportionment of the sea-trade among the three great trading nations, England, France and Holland, and of the intermediate trade among the trading states of second rank; such a condition of equilibrium existed before the Revolution and will return as soon as Europe will have attained to a true peace. England is, therefore, as it now is, the blessing and the last hope of the world. "For this reason," Gentz declares, "every thinking person and every heart that wishes the human race well must take an active interest in the British nation, even though every personal interest were ever so far removed; for this reason, no enlightened European will be able to perceive England's prosperity without exclaiming with that dying patriot: *Esto perpetua!*"<sup>102</sup>

The praise that Gentz thus bestows upon the English state and nation is indeed a very high one; it is, however, not on that account less genuine. How are we to explain it? Certainly not from the fact that Gentz, at this time, was coming into closer touch with the British government

<sup>102</sup>*II. J.*, 1799, III, 381.



and was received into its service; this may have been of some significance, but surely not of fundamental importance. No, the praise was genuine, coming from a man who flattered only when he could do so with conviction. And was it, after all, so out of the ordinary to feel admiration for the greatness of the British name? Many felt this, why then not Gentz as well? Why not he of all others? England was, as he believed, the last bulwark against the French flood, and the permanent defender of that European balance of power, which was so dear to him; it possessed a well-tempered form of government; it breathed by its subsidies ever new life into the struggle against the Revolution, and had preserved much of the aristocratic perfume of the ancient regime; how could Gentz have failed to adore such a country! As a matter of fact, his sympathy for England extended—with interruptions—even beyond the Revolution and Napoleon: as late as 1819 he defends its policies against the attacks of the Abbé de Pradt.<sup>103</sup> Later his sympathy, it is true, waned considerably.

Whether Gentz, by this, showed himself an impartial and clear-sighted judge of actual conditions may, of course, be doubted. He had early identified himself with a definite line of policy, from which he would not and could not depart easily later on. Furthermore, the transactions of the cabinets were known to him only in outline, or so far as the official reports about them had been made public; on a basis like this, a proper orientation was, however, impossible. Finally, there was what we may call Gentz's continentalism. His eyes were always turned, first of all, toward the West, for there he saw the lurking danger to Germany and to the Continent; but that this same West, France, in turn might be looking toward the North and feel itself challenged and threatened from that direction, he never seriously considered.

For about ten years, from 1792 to 1801, Gentz thus fought against republican France with a pen dipped in hate and fear. Then he buried himself in silence for a brief

<sup>103</sup>Weick, V, 289 ff., 298 ff.

moment; he believed he had reasons to assume that the Revolution now had ended, and besides, his political affairs had temporarily become too much deranged. But in 1803 he again takes up his rejected pen and plunges into a new struggle. As it seems, he has deceived himself: the Revolution is, after all, apparently not yet over; so he is fighting once more, this time, however, against the ambitions of one single man, the heir of the Revolution, Napoleon Bonaparte.

To show what form this second struggle of Gentz's took will be the purpose of the following chapter.

### III. THE STRUGGLE AGAINST NAPOLEON

#### 1. BEFORE THE STRUGGLE: 1798-1802.

On the ninth of November, 1799, Napoleon by the *Coup d'État* put himself at the head of the French nation; on the second of August, 1802, he was elected by a plebiscite, consul for life; and on the eighteenth of May, 1804, the Senate and the Tribunes proclaimed him emperor of the French.

These three events formed at once the end and the consolidation of the Revolution. Napoleon liked to call himself the child of the latter, and in a certain sense, rightly so; he was, however, as much its subduer as its heir, and one may be in doubt as to whether he should be viewed more from the one standpoint than from the other.

The four constitutions of his reign—those of 1799, 1802, 1804 and 1815—were formally, at least, founded on popular sovereignty. The constitution of 1799 was submitted to a plebiscite, of the two of 1802 and 1804 only one, but the principal question was placed before the people. Two other fundamental principles of the Revolution, those of equality and of individual liberty, Napoleon also maintained in a certain sense, and the same may be said of the new apportionment of property brought about by the Revolution; his highly developed system of police supervision limited, it is true, this liberty in no inconsiderable measure. In the sphere of foreign politics, Napoleon took over from the Revolution above all the hostility towards England in general, then the idea of invading the British Isles and attacking the English position in India, the exclusion of English goods from French territories and the strengthening of the trade and war marine of France; to this go back also his military tactics, his efforts to build up the French colonial system and his desire to convert the Mediterranean into a purely French lake. Whether he took over anything more is a question at once difficult to answer and important, the

solution of which is, as it seems, well-nigh impossible. It is undeniable that Napoleon continued the expansion policy of the Revolution and that he was, generally, acting upon the offensive; likewise it could be shown that he personally liked best of all to be on the field and in battle. But this does not yet explain why he entered, as he did, upon the career of a conqueror. Did he do so on his own impulsion or through the force of circumstances? England's verdict was that the blame lay entirely in Napoleon's infamy, and on the Continent many were of the same opinion; Napoleon, on the other hand, pointed to England as the real disturber of the peace of Europe. Thus the discussion turned back and forth, and the problem is not really settled even at the present time.

If Napoleon was the heir of the Revolution, he was still in another sense its overthrewer. He restored the monarchy, ordered anew the administration, gave support to industry, and brought back from their banishment law and religion. As has been noted, he held, in a general way, to the principle of equality; he preferred, however, the soldier to the citizen and naturally saw to it that the important posts in the government were filled with dependable men. Republican simplicity soon disappeared under him; even during the Consulate it began to be a legend. Likewise, republican loquacity now grew silent; it especially displeased the new head of the state and was anyhow of doubtful advantage.

Napoleon's two-fold relation to the Revolution caused Gentz to pass judgment on him quite differently. Immediately after the *Coup d'État*, Gentz believes him to be the man who has subdued anarchy. As early as 1802, however, he becomes uncertain, for he has heard that France in the meantime made new annexations. From about 1803 on, he sees, therefore, in Napoleon little else than the heir of the Revolution, especially of its policy of expansion; the personal position of the new ruler, it is true, he regards, after 1804, as legitimized. During the war of 1813-14, Gentz's views take a new turn in that after 1813 he emphatically



defends the Napoleonic Empire whose existence was now threatened; for he now sees in it a dam against the desire for expansion of the Eastern powers.

Gentz mentions Napoleon for the first time in a letter of March, 1798, in which he calls him the "blood-dripping" creator of the Italian republics and expresses the hope that this new celebrity may never rise to the position of dictator of France.<sup>1</sup> His next utterances come in the first half of 1799. Napoleon had, in the meantime, sailed to Egypt; what will he accomplish? Gentz awaits in suspense, as does everyone else,<sup>2</sup> further news, but considers the expedition as hazardous.<sup>3</sup> His interest, nevertheless, is aroused; he is convinced that the young general deserves from now on careful watching. And as a matter of fact Napoleon began just then to get attention from every quarter. People began to see in him the coming dictator of France; Wieland expressed this idea publicly as early as March, 1798, and again in January, 1799, while others cherished it in secret. Gentz knows of these hopes, but at present he is not prepared to share them. Even in 1794, it is true, he reckons with the possibility of a dictatorship in France;<sup>4</sup> the idea that the coming dictator is to be a general is, however, against his wishes. Bonaparte's qualities as a statesman, he declares in March, 1799, are overrated; he may begin revolutions readily enough—as the one of 1797 in Upper Italy—but he cannot end them.<sup>5</sup> In August, 1799, Gentz is still prophesying for France "an endless, continuous series of revolutions and catastrophes."<sup>6</sup>

Things were, however, not destined to come to such a pass, for the harvest was ripe and the reaper at hand. Three months after this prophesy there indeed came a new revolution in France, but it was to be the last for a long time: the *Coup d'État*. Gentz expresses himself on it in the

<sup>1</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 252.

<sup>2</sup>*H. J.*, 1799, I, 62, 79.

<sup>3</sup>*Ibid.*, I, 390., note.

<sup>4</sup>Translation of Mallet du Pan, 146, note.

<sup>5</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 255.

<sup>6</sup>*H. J.*, 1799, II, 456.

December number of the *Historisches Journal* for 1799.<sup>7</sup> The tone of his discussion is sympathetic and hopeful. He sees in the *Coup d'État* the first real revolution since 1789, and the transition of the previous form of French government into a dictatorship, which he terms a "provisional" one. He considers it possible that torn and devastated France now will recover; this recovery, he thinks, will, of course, take a long time, but the prospects are good, although Napoleon still has to prove that he possesses statesmanlike qualities.<sup>8</sup> Gentz does not forget to emphasize the fact that Napoleon obtained possession of the government by unjust means; he hopes, therefore, that his dictatorship may form a mere transition to orderly relations, that is to "universal justice, security of person and of property, the reign of law, stability of government."<sup>9</sup> Perhaps he is most satisfied by what he believes to be the honestly pacific intentions of the new ruler; "for the first time," he declares, "since the Republic came into being, the desire for peace seems not to be a trick of war or a cloak for extortion."

But Gentz's hopeful frame of mind was not long to continue. In the summer of 1802, disconcerting news began to arrive from the West; it was heard that Napoleon had been chosen consul for life, that he had annexed Elba and Piedmont and had interfered with the internal affairs of Switzerland. Worse than this was the fact that France laid claim to a controlling influence in the territorial rearrangement of Germany, and even actually exerted it. The dreaded spectre of French ambition was, then, once more, looming up; again the all-absorbing question was: what next? Gentz suddenly awoke from his dreaming, and the mood which is now animating him is shown by two of his letters to Adam Müller from September and October, 1802.<sup>10</sup> Personally he is exceptionally hopeful, for he

<sup>7</sup>*Ibid.*, III, 430-478.

<sup>8</sup>*Ibid.*, 1800, I, 364 ff.

<sup>9</sup>*Ibid.*, 1799, III, 477 f.

<sup>10</sup>*Briefe v. u. d. Fr. v. Gentz*, II, 368 ff., 372.

is just returning from Vienna with the commission of imperial counsellor in his pocket; but as regards the political situation he exhibits grave anxiety. "I am," he writes, "satisfied with fame and honor; I have not learned much that is pleasant or comforting, but much notwithstanding, very much; now I really know how deep the wounds of Europe are, but I know too where the healing herbs are to be found. . . . I regard myself as one of the instruments whereby Europe is again to be raised to its own. . . . There can and must be no peace so long as crime goes on unpunished; I would sooner see the world in flames than see it perish in this deadly marasmus." Thus he writes, it is true, only to a friend. Before the public he remains silent, for the time being; as he tells us later, he dared do nothing more than "sigh in silence" at the deeds of Bonaparte.<sup>11</sup> Soon, however, he is to fight once more.

## 2. 1803-1809.

The new struggle Gentz conducted no longer from Berlin, but from Vienna. For there he had taken up his residence in February, 1803.

He left, if one is to believe his own statements, the scene of his previous activity with a heavy heart; for he could not, as he declares, hope ever again to be so loved, so honored and so considerately treated as he had been there. As a matter of fact, however, he had then played out in Berlin. Until the fall of 1802 he stood, nominally, still in the service of the Prussian state; but after 1800 he was only occasionally occupied, and filled his time with literary work, with trips to watering-places, complaints at his lack of prospects, and wild dissipation.<sup>12</sup> He had grown thoroughly disgusted with the tedious bureaucratic routine, and also with the insignificance of his own position; besides, there were unpleasant domestic scenes, ever increasing debts, a somewhat shattered personal reputation, and the difficulties which the Prussian government now put in the

<sup>11</sup>Weick, IV, 130, note.

<sup>12</sup>*Festschrift zu G. Schmoller's 70. Geburtstag*, 155.

way of his activity as a publicist. In this manner, things could not go on any longer, that he, himself, saw clearly; something, then, had to be done. But what? Gentz thought of moving to Vienna, and offered his services there, as he himself later tells,<sup>13</sup> in the summer of 1802, apparently in August. He had become acquainted with Counts Stadion and Metternich, the imperial representatives at Berlin and Dresden, and thanks to their recommendations, to the support of the imperial counsellor Fassbender and, above all, the intercession of Count Cobenzl, he succeeded in September, 1802, in entering the Austrian service.

It is not uninteresting to study the intentions and expectations entertained on both sides. On the part of Gentz, hope was as indefinite as it was boundless. While returning from Vienna, he informed Adam Müller of his prospects, and enumerated the alleged main points of the contract: an income of 6000 florins, a pension of 4000 florins, a patent of nobility and the grant of other titles as soon as he should manifest his desire for such honors, free choice of occupation, and deliverance from all "slavish" bureaucratic work; he has, therefore, as he adds, "even opportunity for unlimited activities and prospects such as would satisfy the wildest ambition."<sup>14</sup> The liberation from bureaucratic work he also mentions in a letter to Brinckmann of 1803;<sup>15</sup> in his letter of resignation to the king of Prussia he remarks that only the one condition had been imposed upon him, to move there and to continue his literary work.<sup>16</sup> Information that is considerably different, however, and without doubt more correct, we get in turning to the Austrian side.<sup>17</sup> The man who was pushing Gentz's appointment there more than any other and finally carried it through, was Ludwig Cobenzl, the actual head of the Austrian foreign office. Cobenzl had for some time been

<sup>13</sup>"*Tagebücher*," I, 22.

<sup>14</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 360.

<sup>15</sup>*Ibid.*, II, 128.

<sup>16</sup>Schlesier, V, 17 f.

<sup>17</sup>Fournier, *Gentz und Cobenzl*, 101 ff.



convinced that, in the future, Austria's politics must be more energetically championed before the public, and now believed that he had found in Gentz the right man for this task. His plan was to get the latter away from Prussia, and to tie him to Austria. There he was, at first, to be busied with smaller tasks, until he had shown himself acclimated and fully reliable. After that, he might be taken over into the *Staatskanzlei* as a regular official and his pen made use of on a larger scale; he was, however, to remain under the directions of the two heads of the foreign office. In accordance with this plan, the contract was shaped; its chief points were: 1. Gentz was, without being appointed as a regular official, to receive 4000 florins a year and the title of imperial counsellor; 2. his duty was "to devote all his powers for the best interest of the imperial service, according to the commissions and directions given him, and with the most faithful and obedient devotion." To this Cobenzl added orally that he intended to be a stern chief and hoped he would have to experience no disappointment. Gentz, as Cobenzl states, accepted the conditions with the keenest pleasure and promised to undertake nothing whatsoever without the authorization of those in power.

Gentz had hardly arrived in Vienna when he began to throw himself into the whirlpool of society.<sup>18</sup> The first fortnight formed "a continual round from dinner to supper, from coterie to coterie"; of business he did not even think: it was, as he declared, not to hinder him "from being as free, as merry, as wicked, as oratorical, and as poetical as we may wish to be." There was no lack of night birds of his own type in Vienna, and one of those with whom he turned night into day was none other than Stadion. Did he find the new surroundings more attractive than the old? As it seems, he could not yet become quite clear on this point. The women, he states, are very charming, and the air of Vienna in general is possessed of a narcotic charm; on the other hand, in most of the large houses an exceeding emptiness and monotony may be found. Everything is

<sup>18</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 108 f., III f., 126 f., 140.

divided into coteries with no points of reunion existing; one must, therefore, choose his circle. He himself, is moving in those of the Countess Kinsky, of the Princesses Lichnowsky and Gallitzin and of Prince Lobkowitz; in all he has more than a half dozen of them, Stadion, however, perhaps twenty. In the circles here mentioned are not included those of the foreign embassies; in these, too, Gentz was in part, a frequent guest: he visited particularly the houses of the Russian ambassador, Count Rasumowsky, and those of the representatives of England and Sweden, Paget and Armfeldt. His feelings represented a mixture of immense satisfaction and growing displeasure. "I am honoured, feted and caressed," he writes in April, 1803, "on all sides"; but he adds: "my real activity, however, can only begin when certain changes have been effected which may perhaps be nearer than many think." The spirit of the time, as he sees it, too, is causing him distress; the human race, he remarks with bitterness in the summer of 1803, is just good enough to be drowned in a general flood.<sup>19</sup>

Gentz then wished for a new, a real activity. What was it to be? At first, he expected, probably, only a share in the decisions concerning questions of foreign policy, later however, apparently even the position of minister of state itself;<sup>20</sup> in addition, he intended, of course, to fight Napoleon, the "monster".<sup>21</sup> He hoped and waited, but nothing seemed to result. He turned to Cobenzl, only to receive the answer that the time for his employment had not yet arrived.<sup>22</sup> So he determined to open the fight against Napoleon in a different way and upon his own responsibility; with Cobenzl he might settle later on, when a fitting opportunity should offer itself.

Before taking up the details of this struggle, it may be best to get at an understanding of its general character.

The fact that Gentz hated Napoleon from 1803 on is not to be explained by a dependence on his part upon the

<sup>19</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 128, 147 f.

<sup>20</sup>*Ibid.*, II, 128.

<sup>21</sup>*Ibid.*, II, 144.

<sup>22</sup>*Aus der alten Registratur der Staatskanzlei*, ed. by Klinkowström, 7.

judgment of public opinion, for at this time Napoleon was by no means generally unpopular. The tremendous hatred which Europe later conceived for him accumulated but gradually; in England since 1803, in Austria since 1805, in Prussia practically since 1806 and in Spain since 1808. During the first years of the Consulate, Napoleon was on the whole respected and admired; at any rate his rule was hailed with satisfaction. In the short interim between the peace of Amiens and the renewal of hostilities with England, he even enjoyed the distinction of being an idol of English society; whoever in those days might take a pleasure trip to Paris wanted to see the First Consul. On the occasion of his journey to the Rhine country in 1804, the emperor was received with unfeigned admiration, and in the states of the later Confederation of the Rhine, this feeling persisted even much longer. In Prussia, public opinion was up to 1805 not only in sympathy with the neutrality policy of the government, but even favorably disposed towards France and towards the emperor himself; according to Johannes von Müller, it did not turn decidedly against the latter until the middle of October, 1805.<sup>23</sup> Napoleon had, up to this time, in a certain sense wooed Prussia and was, even after 1805, somewhat underrated by the Prussian generals.

This hatred must, therefore, he explained differently. Perhaps, then, by a tendency in Gentz towards opposition at any cost, or by the unrest which the policy of Napoleon aroused in him? It is not improbable that both of these factors, to a certain degree, did influence Gentz. To fight—only with the pen and with words, but by no means with the sword—was indeed a kind of necessity for him; he felt it as a pleasant stimulant, provided the excitement was not too great, and thought, after Leipzig that, with the triumph of the good cause, life had become somewhat tedious.<sup>24</sup> Likewise there can be no question that for him the calm enjoyment of life was much disturbed by the continual war-

<sup>23</sup>Schlesier, IV, 119.

<sup>24</sup>*Ibid.* I, 169.

fare and its consequences; he had twice to flee from Vienna, he wandered about the world from the end of 1805 to the spring of 1809 and could, thanks to his anti-Napoleonic tendencies, get no official recognition until the latter year. On one occasion he himself speaks, half in jest, half seriously, on this latter point. It was in the summer of 1811. He would have liked very much to go to Teplitz in order to take care of his body, and incidentally to renew the charming acquaintances which he had made there in the preceding year; unfortunately, however, he has to remain in Vienna. With 4-5000 florins, so he estimates to his friend Rahel, he could have managed to stay there "a few weeks"; but he does not happen to have this sum just then. "God," he exclaims, "and his destroying angel, Bonaparte, are upon us . . . Not to be able to talk with you for a few days and not to see the face of the Princess Solms, those are privations in return from which I could wish the founder of the continental system a hell of his own."<sup>25</sup> Similar feelings may have been entertained by Gentz also at other times. However, it would show a slight understanding of his character to assume that he allowed himself to be seriously influenced by such motives; they can, at all events, not have induced him to take up the fight, inasmuch as they arose only during it.

The real cause of Gentz's antagonism to Napoleon lay far deeper: it lay, in the last analysis, in the entire trend of his political thinking. Napoleon was to him, from 1803 on, but the heir of the Revolution,<sup>26</sup> and the Revolution he thoroughly abhorred. It is true, he thought to distinguish differences between the internal policies of the Revolution and of Napoleon, but these did not, in his eyes signify any advance; in 1805, for instance, he suggests that quiet was then reigning in France, but this quiet was, after all, nothing but the silence of general servitude and an unlimited power of government.<sup>27</sup> In the sphere of interna-

<sup>25</sup>*Ibid.*, I, 121 f.

<sup>26</sup>*Mém. et lett. inéd.*, 4 ff., 56. *Briefe v. u. a. Fr. v. Gentz*, II, 251

<sup>27</sup>*Mém. et lett. inéd.*, 87.



tional politics, Gentz feared even worse from Napoleon than what the Revolution had brought. As early as the summer of 1803, he considered the former the storm-cloud which hung threateningly over Europe, the common danger of the Continent, from which no state felt safe any longer.<sup>28</sup> At any moment, the new Caesar might set his legions in motion and inflict a blow in which more than a third of the Continent would participate; who could think of resisting such a power? The fine old balance of power was, as it seemed, definitely destroyed. Worse things, it is true, were yet to come, and then it was Gentz's controlling idea to prevent, at any cost, the erection of a universal French monarchy in Europe.

But how was this to be prevented? Gentz answers: by coalitions. Any other means he does not know. He especially favors a coalition between Austria and Prussia, and to bring this alliance about was the real goal of his fiery activity during the years 1803-1809.<sup>29</sup> At first, he does not yet think seriously of war; he simply intends to intimidate Napoleon through this coalition or others, and even in October, 1805, he is convinced that France will yield before an Austro-Prussian demonstration. That he could entertain such illusions is in reality not so strange as it may at first seem. Miscalculations of this kind are being made again and again; in 1778 and in 1785, Joseph II operated in the same way against Frederick the Great and lost the game. Only later, from about 1806 on, Gentz also saw in coalitions an effective instrument of war.

Perhaps the best insight into the motives and aims of Gentz's struggle against Napoleon may be obtained from the following passage in a letter of December, 1804: "As regards public affairs," Gentz writes, "but one idea now occupies my attention. There must be effected a union between Austria and Prussia; and I claim it will come. For two months I have been working for this day and night, in

<sup>28</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 114. Cf. p. 128.

<sup>29</sup>Fournier, *Gentz und Cobenzl*, 251 ff. Schlesier, IV, 16, 86. ff., 100, 117. *Briefe v. u. a. Fr. v. Gentz*, II, 251. 259.

public and in private, with pen and tongue. You shall soon get to see something on that subject. If I can say to myself that I have contributed something to this measure, then I shall consider my goal as attained and my life as well-nigh closed. To resist the French Revolution was my first and holiest purpose: it has been victorious, has been completed—even crowned; that is finished. To prevent the fall of Europe's independence in consequence of that awful revolution—is my present and, of course, my last purpose. The union between Austria and Prussia, accompanied by a general consolidation of all the remaining forces of Germany—this highest German and at the same time European project—is the only means to attain that end; it is, however, also a sufficient, a complete and a thorough one. If Germany shall become united . . . then we can say farewell to Russia (with which for a thousand good reasons I now will have nothing more to do), can see England fighting its glorious fight on a sure and grand basis, and can laugh at all the threats of France. To subdue haughty, terrible, mad, impious, detestable and despicable France by a measure, . . . through which alone Germany . . . can again become Germany, and to find the means for our salvation in the very thing which can at the same time give us the foundation for our future national greatness—what German may resist so ravishing and charming a prospect as this!"<sup>30</sup>

Gentz's attitude towards Russia was, almost from the beginning, one of mingled feelings.<sup>31</sup> To him, Russia was the colossus of the North, the natural rival of Austria in the East and her possible friend in the West, a backward but eventually dangerous power which needed only to extend her hand toward France to share with her the mastery of the Continent and throttle Austria. An alliance with such a power he regarded, in general, as a necessity for Austria, at least until about 1809. That both powers, if

<sup>30</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 251.

<sup>31</sup>Fourmier, *Gentz und Cobenzl*, 256 f., 260 ff. Schlesier, IV, 88 f., 103, 157. *Briefe v. u. a. Fr. v. Gentz*, II, 106 f., 208 f., 251, 250, 202. Cf. p. 121.

allied, would be able to offer successful resistance to Napoleon he did not really believe, at least not after September, 1804; for this, he considered the assistance of Prussia as indispensable. But the alliance would, at any rate, mean a positive strengthening of Austria's power, and then—that he emphasizes in 1804 and again in 1814—a possible union of Russia and France had by all means to be prevented. His estimate of the military value of the Russians was, as regarded a campaign in the West, not a high one; and scarcely higher was his opinion of their diplomatic ability. "We know the Russian geniuses," he writes in June, 1804: all of the average type, or beneath it, generals as well as ministers, with the exception of one man, who is now, however, out of office. At other times, indeed, immediately before Austerlitz, for example, he values the Russians more highly. What especially aroused him was Russia's attitude towards Germany. Already the Russian interference in German affairs during 1801-1803 had displeased him greatly; he became highly indignant, however, at the conceit which the Russian generals, in the campaign of 1805, displayed toward the Austrians. After Leipzig, when the subjugation of Napoleon seemed accomplished, he regarded the Russian colossus hardly as anything less than as the rival of today and the enemy of tomorrow. As if to heap coals of fire upon his head, Emperor Alexander, who apparently knew little of these hostile feelings of Gentz, bestowed upon him, at the end of 1813, the order of St. Anne, calling him at the same time in an autograph, "the champion of law, the defender of the true principles of political wisdom and the art of government."

Gentz kept up relations with England until the time of Napoleon's fall, though not always with the same degree of intimacy.<sup>32</sup> In the first years of his residence at Vienna he acted, as we know, in the capacity of an English agent, being reimbursed for his services by occasional remittances. After 1809, however, he ceased to act as such in any real

<sup>32</sup>*Tagebücher*, I, 40, 52 f., 214, 255 f.

sense of the word, and after 1811, the flow of English guineas also seems to have stopped; his value as an agent depended naturally upon his connections and his knowledge of diplomatic secrets, and as early as 1805 he believed to have discovered that in this regard he was now less highly thought of in London than formerly. But in whatever way Gentz's personal wire to London might work, whatever he might think of English ministries and English policies, to England itself he remained faithfully attached during all these years.<sup>33</sup> The policy of the Addington ministry disturbed him for a moment, but after that he no longer doubted that Britain would stand to the end in the service of the good cause. At times it would even seem as though the fate of England lay closer to his heart than that of Austria or Prussia; when Napoleon was thinking of invading the British Isles, he fairly "trembled," as he says himself, for their future. And this devotion lasted, as we know, even beyond the days of Napoleon; it was so strong that Gentz never entertained the idea that after the elimination of the French supremacy, the English control of the seas would necessarily be only the more uncontested.

The methods which Gentz himself used to reach his political aims were practically the old ones of Berlin: memorials, letters, verbal conversations and publications. The lines of division may here sometimes be hard to determine; in general, however, they are distinguishable, and if we draw these lines, we find in the years from 1803 until 1815 somewhat less than thirty memorials from Gentz's pen: five in 1803, three in 1804, three in 1805, two in 1806, two in 1807, one in 1808, one in 1808-1809, two in 1810, one in 1813, three in 1814 and five in 1815. the two war-manifestos, the treatises on the Austrian finances, and those on maritime law are not included in this list. About half of these memorials were directed to Viennese personages, namely three to Cobenzl, one to Archduke John, two to Stadion and seven to Metternich; five were in-

<sup>33</sup>Fournier, *Gentz und Cobenzl*, 264 ff. *Briefe v. u. a. Fr. v. Gentz*, II, 130, 144, 161, 171 ff., 251.



tended for London, one for Berlin, and one for St. Petersburg. The correspondence carried on by Gentz during this period was of unusual extent. He himself gives the number of his "more important" letters written between 1803 and 1807 as over two thousand, and mentions among them letters to the emperors of Germany and of Russia, the king of Sweden, the queen of Prussia, Archduke John, the duke of Weimar, Prince Louis Ferdinand of Prussia, the later Louis XVIII of France, the duke of Orleans and the Prince of Wales; also letters to many English statesmen, to the Prussians Hardenberg, Haugwitz and Boyen, to the Russian Panin, to the Swedes Armfeldt and Brinckmann, and lastly to Johannes von Müller, Rahel, Goethe and Schiller.<sup>34</sup> A considerable number of these letters, however, were of no political import. Of those belonging to the following years, letters to Baron Stein, Nesselrode, and Pozzo di Borgo, to a number of Austrian generals, to Madame de Staël and Friedrich Schlegel deserve to be mentioned.<sup>35</sup> Gentz made, however, now no longer so strong attempts to influence public opinion as he had done formerly: the last of his publications—if we except the two war-manifestos—fall into the years 1806 and 1807, the most important of which were the *Fragmente*. In a certain sense, it is true, Gentz addressed himself to larger circles also in his occasional pamphlets on the financial condition of Austria, and indirectly through the channels of the *Österreichischer Beobachter*; the last named paper stood, at times, under his direct surveillance. Nevertheless, in general he remained silent in this regard after 1807, being convinced that politics were made by the cabinets, and that the general public was but a sluggish, spiritless, and rather stupid mass, not to be influenced by books.<sup>36</sup> Perhaps, he was, in addition, officially warned after the conclusion of peace in 1809 against open attacks on Napoleon.<sup>37</sup> To

<sup>34</sup>Schlesier, V, 29 f.

<sup>35</sup>*Ibid.*, V, 30.

<sup>36</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 147; I, 280.

<sup>37</sup>*Ibid.*, I, 341.

arouse the high society in Vienna and elsewhere, Gentz endeavored with unwearying zeal, at least until 1809, believing, as he writes to Johannes von Müller in 1804, that he was helping thereby the good cause not a little.<sup>38</sup>

To these old methods there was added, however, a new one: political intriguing, the overthrow of ministries, or at least attempts in this direction. It is true, Gentz employed this new method almost exclusively against that ministry which he found in power at Vienna upon his arrival there, and within it against Cobenzl in particular.<sup>39</sup>

What was to follow when the struggle against Napoleon should have been ended successfully, may be derived from the preceding chapter on Gentz's political theories, from the citation just made, from the letter to Metternich of November, 1813, and, finally, from the letters to Johannes von Müller.<sup>40</sup> Gentz demands—and these are the ultimate ends towards which he is working—a return to the balance of power; the formation of a new federative system in Europe which would offer a guarantee of independence to the individual states; a territorial reduction of France; the liberation of Germany from every foreign tutelage; a numerical reduction of the German states and the consolidation of those remaining into a federation in which Austria and Prussia should have the leadership, and Austria again should enjoy a certain preponderance over Prussia as the *primus inter pares*; finally, the suppression of all revolutionary tendencies by the European areopagus, the maintenance of the foundations of state and society, and a measured progress in minor points.

If we turn to Gentz's judgment of the man Napoleon, we must above all keep in mind that this judgment was considerably influenced by the former's general relations to the latter. Any subtle distinction between the politician and the man, Gentz was never prone to draw, although

<sup>38</sup>Schlesier, IV, 15.

<sup>39</sup>Cf. p.

<sup>40</sup>Schlesier, IV, 19, 21, 48, 157, 167, 179. Cf. p. 147 f.

claiming himself to have drawn it in his dealings with Cobenzl;<sup>41</sup> besides, in the present case, he materially changed his views as soon as the enemy had become harmless. In general, Napoleon was in his eyes an undoubtedly extraordinary figure who combined every conceivable wickedness with unusual ability. The epithets which Gentz applies to this man between 1803 and 1806 are as long as they are dreadful. He calls him immensely ambitious, haughty, passionate, extremely provoking, a "faithless, vain, petty usurper, by the infamy of contemporaries raised first to greatness, then to a frenzy of greatness, an insolent, impious and villainous tyrant," a "stage monarch," a "blood-reeking beast," and "idol," "Baal," "Belzebub," and so on.<sup>42</sup> He is especially aroused by Napoleon's bold assumption of the dignity of emperor.<sup>43</sup> How could a man coming from a "branded" family, a "parvenu," like him, think of taking to himself such a hallowed title! How could the princes of Europe submit to this "boundless infamy," how could God in heaven suffer it, even with his incomprehensible patience! It was too much; "can you find words," he asks Brinckmann, "to express this latest of all pieces of villainy?" More moderate in form, more detailed and interesting, are Gentz's characterizations of Napoleon in his letters to Metternich of 1813 and 1814.<sup>44</sup> In August, 1813, he writes in his plastic style concerning the war: "It is the struggle with a raging monster, which before it falls, lays waste the earth about it, but it is none the less its death-struggle, and it can not escape its fate." Then in November, 1813: "The boldest hazard of my life, my obstinate assertion of the personal mediocrity of the ex-hero of our time is now crowned with a success that I myself never looked for. That he was as I said, God indeed revealed to me, and I should have

<sup>41</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 249.

<sup>42</sup>*Mém. et lett. inéd.*, 8, 9, 11, 45, 66. Schlesier, IV, 54, 86, 118. *Briefe v. u. a. Fr. v. Gentz*, I, 291; II, 135, 144, 194.

<sup>43</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 194, 212.

<sup>44</sup>Metternich-Klinkowström, *Österreichs Theilnahme an den Befreiungskriegen*, 50 f., 97 f., 291.

died with that conviction, even though he had conquered Asia. But that the whole world should so soon see it, comprehend and acknowledge it, I never promised myself. His soul was long ago comprehensible enough to me, his intelligence much later, and then only with great restriction; but his character still defies me. That there is a tremendous difference between an iron character and a great one did not commend itself to me either. At last everything is becoming clear." Finally, in March, 1814: "This man has his whole life long done nothing but play a great military play with the French, with all Europe, with himself and his own fate. He remained the same at the summit of fortune and on the verge of destruction. His language is not that of a Nero, nor yet that of a Caesar. The strange phenomenon which we call Bonaparte can be measured only by its own standard. The consequence of all the great mistakes, and therefore of all the great suffering of our time, was that Napoleon was ever considered either a demigod or a monster, or perhaps as both in one."

The last of these quotations sounds already less hostile, and a year later, by the end of July, 1815, Gentz had reached a complete change in his judgment. If he now expresses himself about Napoleon almost sympathetically, and certainly with unfeigned emotion, it was not only because he had just then received from Adam Müller a dramatic and inspiring description of the battle of Waterloo which did justice to the Emperor:<sup>45</sup> there were other motives just as strong. The struggle was now over and the career of the opponent definitely closed; thus Gentz was able to view him in a more objective and historic way, and by the tribute that he now pays to Napoleon he proved that he united, after all, with his Phœacian inclinations a deeply rooted appreciation of heroism. In this tribute he first makes acknowledgment of Napoleon's attitude on the *Bellerophon*, and then goes on to say: "It is certain that his character never changed for an instant, and that he has borne this last catastrophe with unaltered equanimity. The

<sup>45</sup>*Ibid.*, 641 ff. Gentz describes the battle himself.



fear of death can never have befallen a man who in the most fearful danger ever showed an iron courage, and even on the day of the battle of Waterloo so exposed his person that no English or Prussian corps could be named which has not seen him at least twenty times on that day in the heaviest fire and turmoil. If he preferred imprisonment to death, he made his choice with forethought; and it can be said that from the beginning to the end of his career he has thrown his contemporaries one after another, now into astonishment and now into rage, that he has outwitted them, despised, scorned and bluffed them; a riddle without an answer, a phenomenon without a parallel, an inexhaustible subject for conjecture, investigation and the despair of historians who in the future will desire to give a faithful picture of him to the posterity which is to judge him."<sup>46</sup>

After this general orientation, we take up the thread of our narrative once more.

Gentz has, as we know, established himself in Vienna and opened his private warfare against Napoleon. For some time, no important happenings are to be noted in his life; but there occurred a considerable number of minor events, and to these—covering the period from the spring of 1803 to the summer of 1805—we have now to turn our attention.

Gentz is of course very busy during this time, for when not busy he becomes bored. He meets many prominent personages, such as Fassbender, Stadion, Metternich, Mack, Paget, Panin, Rasunowsky, Pozzo di Borgo and Armfeldt; with Cobenzl he has but little to do. Soon he rents a country house in Hietzing, one of the suburbs of Vienna, and there he gives tea-parties, or he makes short expeditions into the mountains. Now and then he might also permit himself the pleasure of a love adventure; it goes without saying that he continues to frequent the drawing-rooms of the fashionable world. In general he feels in good spirits.<sup>47</sup> During the second half of 1804, he begins, it is true, to be

<sup>46</sup>*Ibid.*, 686.

<sup>47</sup>*Tagebücher*, I, 30, 33.

discontented with conditions in Vienna;<sup>48</sup> at times a feeling of disgust with the whole world comes over him, and once when in such a mood he tells Brinckmann that he is ready to fight to the end, but that if it comes to the worst, he will bury himself in solitude of the mountains.<sup>49</sup> Still, though he suffers all these moments of depression, Gentz continues to maintain his old self-reliance. In October, 1804, he writes to Brinckmann: "I can assure you without boasting that I have not gone astray for many a day in a single political calculation."<sup>50</sup> Likewise in December, 1804: "I am highly esteemed by all parties and people in Vienna, am loved by many feared by some. . . . The archdukes are not more firmly established, not less exposed to any unpleasantness of even to a *consilio abeundi* than I."<sup>51</sup> Once he makes the laudable attempt to pay off, in part, his debts; unfortunately, the money is embezzled.<sup>52</sup> How he maintained financially his very luxurious mode of life, we do not know in detail; part of the money came, at any rate, from the coffers of the foreign office at London.

Gentz's correspondence was in this period, until the beginning of 1806, a very extensive one, especially lively with Brinckmann, with Johannes von Müller and, first of all, with London.<sup>53</sup> Five memorials fall in the year of 1803: one was addressed to the duke of Weimar and entrusted to Johannes von Müller for delivery, one dealt with the French financial administration, two with the probability of a continental war in event of hostilities between France and England, and one with England's problems in the war which has just broken out.<sup>54</sup> The exact contents of these memorials are but little known, for so far they have not been found, and Gentz himself speaks of them only in

<sup>48</sup>*Ibid.*, I, 37.

<sup>49</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 225.

<sup>50</sup>*Ibid.*, II, 231.

<sup>51</sup>*Ibid.*, II, 248.

<sup>52</sup>*Tagebücher*, I, 29 f.

<sup>53</sup>*Tagebücher*, I, 27.

<sup>54</sup>Schmidt-Weissenfels, *Friedrich Gentz*, I, 174, f. *Briefe v. u. a. Fr. v. Gentz*. II, 130, 159 f.

passing. To the duke of Weimar, he explains the expediency of working once more toward a union of the German princes, which would now, however, have to be directed against France and include Austria as well as Prussia. In the memoir on England's duties—it was meant for London, but did not actually go there, though it came to the attention of the king of Sweden<sup>55</sup>—he gives the advice to start a revolt within the cabinets in the interest of the European balance of power, or to conquer all possessions of the non-European powers outside of Europe, especially those of Spain in America.<sup>56</sup> This last idea Gentz touches upon again in 1806;<sup>57</sup> the problem of the balance of power hypnotized him apparently to the extent that he was ready to sanction almost anything that promised help. Further memorials appeared in the years 1804 and 1805; these, however, will be analyzed later.<sup>58</sup>

Outside of Austria, Gentz kept up connections with leading personages on the Thames, Spree and Neva. Whether he ever seriously shared in the intrigues against the Russian minister of foreign affairs, may be left undecided; a change in St. Petersburg would, however, undoubtedly have pleased him.<sup>59</sup> At Berlin he possessed in Johannes von Müller and, in a certain sense, also in Brinckmann, active fellow-champions of his ideas; the Prussian war-party, too, was working in harmony with his aims, and at its head stood that Prince Louis Ferdinand with whom he had been so well acquainted since the end of his Berlin period. Especially lively were Gentz's relations with London. Stacks of letters and memorials were sent thither through various channels, and at the same time Gentz enjoyed confidential relations with Paget, the English representative at Vienna. What information he gave the British statesmen, and what measures he advised, we know only in part. As long as Addington was in power, his main con-

<sup>55</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 159 f.

<sup>56</sup>*Ibid.*, II, 162.

<sup>57</sup>*Aus dem Nachlasse*, II, 10 f.

<sup>58</sup>Cf. p. 112 ff.

<sup>59</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 231. *Preuss. Jahrb.*, CX, 476.

cern was a fear that England might give in; and he therefore sends repeated warnings to hold out. Malta, above everything else, should not be given up at any price.<sup>60</sup> He is happy at the assumption of government by Pitt in May, 1804, and immediately his notes, letters, and memorials begin to pour in. First he presents to the new premier his memoir against a recognition of Napoleon's imperial title;<sup>61</sup> at the same time or a little later he must, as we learn from a letter to Johannes von Müller of November, 1805, have warned Pitt not to overestimate Russia and to remember that a war against Napoleon at the side of the ministry Cobenzl and without the voluntary aid of Prussia would be hopeless.<sup>62</sup> Almost identical warnings were sent by Paget, but Pitt went his own way.<sup>63</sup> In November, 1804, Gentz presented another memorial, this time to the Earl of Harrowby, Pitt's secretary of foreign affairs, in which he recommended an *entente* between Prussia and Austria.<sup>64</sup>

If we turn to Gentz's activity as regards Austria itself, immediately and above all we hit upon his relations to his immediate superior. We know that Cobenzl at first simply intended to attach Gentz to Austria, and to make serious use of his abilities only later. This time had not yet come by the end of 1803, and in fact never came; for until 1809 Gentz was never really employed. That he must have felt this neglect bitterly is self-evident, and a part of his hostility against Cobenzl undoubtedly went back to this fact. Far more important, however, was that he considered the latter as being perhaps the chief obstacle to a successful fight against Napoleon, and how this came about will now have to be considered.

When Gentz entered the Austrian service, the government lay in the hands of a ministry composed of three departments: the departments of foreign affairs, the interior

<sup>60</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 126.

<sup>61</sup>*Preuss. Jahrb.*, CX, 475.

<sup>62</sup>*Schlesier*, IV, 159 f.

<sup>63</sup>*Preuss. Jahrb.*, CX, 473, 476.

<sup>64</sup>*Briefe v. u. a. Fr. Gentz*, II, 245.



and war. At the head of the foreign office stood Counts Colleredo and Cobenzl, the former as its nominal, the later as its real head; one of the counsellors working under them was Collenbach. The head of the department of the interior was Count Kollowrat, who had also supervision over the financial administration. Finally, the head of the war department was Archduke Charles, a brother of Emperor Francis and the victor of 1796; next to him in position and influence were General Duka and Counsellor Fassbender. The competence of these departments seems to have been disputed, and a real cooperation between them never existed; two were even really hostile to one another. The war department, including Archduke Charles, considered Austria as too weak, both in a military and financial way, to carry on successful war with Napoleon even with Russia's aid, and sought, therefore, friendly relations with France. The foreign office, on the other hand, though also convinced of the weakness of the monarchy and not principally in favor of war, did not consider a war if fought in union with Russia, as entirely hopeless. The Emperor sided at first chiefly with the peace party. Since the peace of Amiens, the real opposition to Archduke Charles and his group was formed of a number of persons of high rank and social standing who passed under the name of the "Anglo-maniacs"; among them were men such as Panin, Rasumowsky, Paget, Armfeldt, and Pozzo di Borgo, the ladies of the aristocracy, French emigrants and others. The program of this party was the coalition of Europe against Napoleon.

Cobenzl had been entrusted with the conduct of foreign affairs in October, 1800, but did not actually enter upon his duties until September, 1801. He possessed considerable diplomatic experience, being especially well acquainted with the conditions in St. Petersburg, where for twenty years he had been the representative of the court of Vienna, and the advocate of an Austro-Russian alliance. As the *protégé* and pupil of Kaunitz, as a former confidant of Joseph II, and on account of his long diplomatic career, he really belonged to that earlier period of Austrian

diplomacy in which the antagonism to Prussia had formed the leading idea of the Austrian cabinet. In St. Petersburg he had acted as an enemy of Prussia, and it was now to be seen whether he would retain his old policies in the new position. Times had changed, it is true; the European situation was now of a different character, and Cobenzl himself did not enjoy the same measure of respect and confidence from the now reigning emperor as from his predecessor.

The task which lay before the new chief of the Austrian foreign office was an unusually difficult one. On three sides, the Austrian monarchy bordered on great states: in the north and east on Russia, in the east on Turkey, in the north on Prussia, and in the south, in Italy, on the outposts of France; on three sides, then, it was exposed to dangerous attacks. Prussia, it should be said, was in an equally exposed position; she had, however, lived in peace with France since 1795 and was at this time even courted by this power. Russia was geographically protected and could easily come to an understanding with France. Austria's position could, then, not be termed enviable: all around her only rivals and elements of possible conflicts and nowhere a friend unless it were across the sea. To the west, the danger was probably as great as ever; Napoleon, it is true, still held back and besides, his death or a new revolution might completely change the situation there. Not less serious were the dangers which threatened from Russia and Prussia. Although a direct attack on the monarchy itself did not seem probable, or at least not imminent from this side, yet attempts at new territorial annexations would in this case, if once completed, in all probability be of a permanent character. If there was any way out of this dangerous isolation, it had to be sought in an alliance with one or several of the great powers, and then the choice practically lay between France and the late Coalition. The natural course was to seek a union with the latter; it was necessary, however, in striving for it to proceed with the utmost caution. France must not be aroused, at least not before everything

was in readiness for a conflict; for if it came to war, the first blow would fall upon Austria. In order to meet it in time, hostilities must not begin until the Russian forces were near enough and the very important question of English subsidies had been settled. We shall see that the policy of the Austrian minister held almost exactly to this line of reasoning.<sup>65</sup>

Cobenzl came to Vienna with the conviction that Austria's salvation lay in an alliance with Russia, and immediately made overtures in this direction to the Russian ambassador, Count Murawief; his object was not to bring on war, but to prevent a further expansion of France. The sounding had no results. In the beginning of 1803, Cobenzl made a second attempt to approach Russia, sending even an archduke to St. Petersburg; this move was also without results. A fundamental change in Russian politics was, however, at hand. Russia's relations with France had in the meantime cooled considerably, and new connections were now desirable; since Prussia intimated a desire to maintain her neutrality, the Czar suggested at Vienna in the autumn of 1803, that the time might have arrived to consider a union of the two imperial courts for the protection of their mutual interests against the robber republic. Cobenzl was pleased at this readiness to come to an understanding; nevertheless, he took up the suggestion only with the greatest caution and did not, for the time being, allow himself to be moved to any decisive step. What considerations guided him here can best be seen from the instructions of November, 1803, given to the new Austrian ambassador at Berlin, Count Metternich.<sup>66</sup> The late extension of French influence over Switzerland, Holland and Parma, Cobenzl explains, may have the object of strengthening the position of the First Consul in France itself, but it may also form the beginning of a despotic French hegemony in Europe; in the latter case, it is an evil against which there is but one

<sup>65</sup>Fournier, *Gentz und Cobenzl*, 29 f., 75 ff., 140 ff.

<sup>66</sup>*Ibid.*, 203 ff.

means: the coalition of the powers. England, and finally also Russia, are ready for such a step; Prussia, it is true, can not at present be depended upon. Austrian interests clearly demand a cooperation with Russia, and the only question is how far such joint action shall go and what object it shall have. To give it an offensive character would be inadvisable, since in the event of war, the first attack would be directed against Austria, and Napoleon was always better prepared to fight than either Austria or Russia; besides, the main part of the Russian army would have to be employed in watching Prussia. Thus Cobenzl, although declaring himself for a cooperation with Russia, emphasizes the necessity of great consideration toward France; he was inclined most of all to favor a neutral position and dilatory measures without, however, letting the possibility escape of establishing closer relations with Russia. Caution and the desire to avoid all compromising actions characterize his policy more than anything else, for he has other purposes than to make Austria dependent upon the movements of the Russian cabinet; perhaps, he declares, Bonaparte is after all not so insatiable as England would have him to be, perhaps he may yet be induced to moderation, and then it would be Austria's task to mediate between the powers. As for England, that power, he concludes, must be watched with mistrust; Britain seems to have the dangerous intent of turning the threatened French invasion back upon the Continent, and to this, Russia's attention will have to be called in no uncertain fashion. Cobenzl held to the standpoint outlined in these instructions for the next two months: the negotiations with Russia were continued, but at the same time France received the most considerate treatment. In this way things went on without any essential changes and to the increasing dissatisfaction of Metternich, Stadion, the Vienna war-party and the Czar, until the spring of 1804, when new events forbade the continuance of these dilatory tactics. Napoleon acted as though wishing to annex the Cisalpine Republic to France and to come to an intimate understanding with Bavaria; besides, the



cooling of the relations between Paris and St. Petersburg had now developed into a scarcely concealed breach. Cobenzl realized the impossibility of further temporizing. He made a futile attempt at coming to an understanding with Prussia and then determined—on November 6, 1804—to form a defensive alliance with Russia against France. The die was cast, and immediately Cobenzl showed that his previous hesitations had in no wise been the result of natural indecision; he demanded and obtained the reorganization of the war ministry; Duka was replaced by General Mack, Fassbender removed and Archduke Charles' competency reduced. Eight months later Cobenzl took the last step. In March, 1804, the French ambassador at Vienna officially announced that the acceptance of the crown of Lombardy by Napoleon was imminent, and in June of the same year the Ligurian Republic was incorporated into the French empire. The danger for the Austrian possessions in Upper-Italy had thus become a direct one, and now—July 7, 1805—Emperor Francis decided, on the recommendation of the foreign office, to join the English-Russian alliance. This step meant an abandonment by the Austrian cabinet of its previous defensive attitude, and the effects of the new policy became apparent almost immediately: a few weeks later, the French army that had been standing on the shores of the Channel started towards the Rhine.

All the negotiations referred to above were carried on with the utmost secrecy as they should, for the present, remain a secret, and above all never come to the knowledge of Napoleon; it is even possible that Cobenzl let drop, in addition, certain misleading hints.<sup>67</sup> The plan of secrecy was logically quite correct, except for the fact that it was sure to have very serious attendant results: since no one knew exactly what was happening, many would not even believe that anything at all was in progress, at least not anything good. The war-party became first suspicious, and then aroused, as did Gentz, who in the meantime had risen to the

<sup>67</sup>*Tagebücher*, I, 39.

position of one of its leaders. He knew, as he tells later,<sup>68</sup> extremely little of the negotiations that were being carried on with Russia; but this little satisfied him that Cobenzl plainly had in mind to reject Russia's offer, that he would not trouble himself about Prussia's support, and that he was ready to allow destruction to overtake the state. Such conduct was surely unheard-of, almost high treason in fact, and the good of the country demanded that it be stopped as quickly as possible. Since Cobenzl might still be open to arguments, Gentz proceeded to address a number of memorials to him.<sup>69</sup> Almost at the same time, however, he adopted also other and most extreme measures: he sounded the alarm, denounced the minister in letters,<sup>70</sup> aroused society against him wherever it was not already so disposed or did not belong to the opposite party, and sought to obtain Cobenzl's removal from office, first from the Emperor through Archduke John (autumn of 1804), then from Pitt (autumn of 1804 and end of 1805), and through Czartoryski even from the Czar (end of 1805).<sup>71</sup> Years later he confessed his mistake.<sup>72</sup> He was, as he remarks in his diaries, less and less in touch with Cobenzl and at last not at all so, and had been left by him in "complete and wrongful ignorance" about the negotiations with Russia; Collenbach had even absolutely shunned him. From Fassbender and Archduke John he had heard the little they themselves knew, and further, but entirely misleading, information had come to him through Paget. The really more reliable sources had remained closed to him, and thus he had fallen "from one misconception into another." The justification is lame indeed. In reality Gentz opposed Cobenzl almost from the start with prejudiced mind; he judged him by his

<sup>68</sup>*Ibid.*, I, 39.

<sup>69</sup>*Cf.* p. 112 ff.

<sup>70</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 173, 194 f., 258. *Schlesier*, IV, 10, 74 f., 143, 155.

<sup>71</sup>Fournier, *Gentz und Cobenzl*, 245, 262, 288 ff. *Preuss. Jahrb.*, CX, 476, 479. *Schlesier*, IV, 145 f.

<sup>72</sup>*Tagebücher*, I, 39 ff.

St. Petersburg antecedents and would take neither the time nor the trouble to wait and see how Cobenzl would act in his new situation.<sup>73</sup> Waiting was always hard for him, and he was, it must be remembered, a publicist.

Whom Gentz wished to place at the head of the Austrian foreign office is not quite clear. As it seems, he proposed to Pitt in 1805, Prince Trauttmannsdorf, an adherent of the Prussian alliance and a former temporary head of foreign affairs.<sup>74</sup> Incidentally he may have thought also of Archduke Charles, who, however, appealed to him as not at all significant, or, perhaps, of Archduke John.<sup>75</sup> His innermost desires, however, were bent upon quite a different man: Metternich. He had, so he writes to Brinckmann in January, 1805, just explained to Archduke John that as eventual successor to Cobenzl, no one else could be seriously considered; Metternich's youth, he adds, may, however, stand in the way of this plan.<sup>76</sup>

What course of politics Gentz considered in particular as the most advantageous for Austria, can be seen from his memorials and letters written during this time.

The first of these is the *Mémoire sur la nécessité de ne pas reconnaître le titre impérial de Bonaparte*, which was presented to Cobenzl on June 6, 1804.<sup>77</sup> Gentz is of the opinion that Napoleon's recognition, if possible, should be omitted or refused, and this for two reasons: in the first place, because the authority and power of the First Consul would thereby be increased; in the second place, because the Revolution would thus receive European sanction. Up to the present time, he thinks, the rule of Bonaparte could be regarded as a praiseworthy attempt to suppress anarchy, and from this point of view he himself has regarded it until now; but that is no longer possible, since the question of founding a Bonaparte dynasty has arisen. The French

<sup>73</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 128.

<sup>74</sup>*Preuss. Jahrb.*, CX, 476.

<sup>75</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 258. Schlesier, IV, 59, 75.

<sup>76</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 259 f.

<sup>77</sup>*Mém. et lett. inéd.*, 1-28.

people, it is true, do not seem to protest against this plan, and Bonaparte himself is seeking above everything else, the approval of public opinion and its leaders; but by this very fact the latter identifies himself with one of the chief principles of the Revolution, that of the sovereignty of the people. Bonaparte is the product as well as the representative of the revolutionary tendencies; to recognize him would, therefore, mean to sanction these. And granted that he were thus recognized, what would be the consequence of such a step? The magic of the supreme power would be destroyed; no throne could be considered safe any longer; a general levelling would probably result, and every future revolution would find its excuse in advance. The best move, Gentz concludes, would thus be to refuse Bonaparte the desired recognition; if, however, this be unavoidable, then let it be given only in concert with other powers, especially with Russia, and only in return for concessions.

The next memorial is addressed to Archduke John; it was delivered to him on September 6, 1804, and was to reach, if possible, the ear of the Emperor himself.<sup>78</sup> In content, it is one of the most valuable and best-written of all the works of Gentz. The ideas brought forth in it are as follows. Even a cursory review of the international situation of Europe shows it to be unsatisfactory and serious. That the Revolution has now definitely come out victorious and in all probability will pursue its ravages even farther, is bad enough; but it is far more serious that the European balance of power has now become a mere fiction. The Continent is unmistakeably trending towards a double universal monarchy: the East will, unless a bar is interposed at the eleventh hour, fall to Russia, the West and South to France, and central Europe to both powers together. In a certain sense these changes, which must be expected from the future, have already taken place. Italy, Switzerland, and all northern and western Germany are already nothing but French dependencies, and the terror of the French name

<sup>78</sup>Fournier, *Gentz und Cobenzl*, 242-202.



has become the chief and only political impulse of all governments. In addition to this there stands at the head of France's colossal power a sinister, passionate and insatiable man who from all appearances is reaching out for control of Europe. England and Russia have so far maintained their independence; Prussia, however, already awaits with each rising sun its death-sentence. Austria lies at present still outside of the French circle, but its situation is likewise highly precarious. The former buffer-states toward France exist no longer; they have even become tentacles with which the French octopus holds the Habsburg monarchy in its embrace. On all sides, Austria now borders upon avowed or secret enemies; its influence outside of Germany is no longer noticeable, and should there come about that most dangerous of all political combinations, an alliance between France and Russia, then Austria's end would no longer be far off. The danger is therefore great, and the only means to escape it is a change in the entire political system. If Austria does not want to rush straight to its destruction, it must come out from its isolation and that too without delay. In other words, it must form alliances, and an alliance with Prussia would have most to recommend it. The influence of such a move would extend not only to the political situation but also to the spheres of trade, industry, and general culture in both countries; it would also bring about a consolidation of the "Empire", would hold Bonaparte in check and make possible a rehabilitation of the independence of Holland and Switzerland. To bring this alliance to pass presents, it is true, a most difficult political task; nevertheless, an attempt ought to be made. If this should fail, then the time will have arrived to think of different combinations, in the first place of a union with Russia. France is, in this connection, not to be considered, because its power is so colossal that an Austria allied with it would be condemned to play the part of a second. The alliance with England is desirable under any circumstances; it is, however, not absolutely necessary in case Prussia could be won over, and

without Prussia, it is not sufficient. There remains, then, next to the Prussian alliance, as the only effective one, that with Russia: this might prevent war altogether, and would, if war should break out, afford some certain guarantee of success. But it is just this alliance which, in spite of Russia's willingness, is now avoided or at least not sought for by Austria. A ministry which evinces such an absolute lack of wisdom and courage can naturally achieve no results, and it is only to be hoped that it will soon make way for personages who are ready to enter upon a different course. Energy, patriotism, other men and other measures—these are the things which Austria now needs. Only in this way, Gentz concludes, shall we succeed, “in not only lifting ourselves from our present degradation, but in even reaching a glorious height whence we shall be a model for those about us who, too, have fallen, the protectors and avengers of the oppressed and the terror of the oppressors.”

The annexation of Genoa by France caused Gentz to send Cobenzl, in June, 1805, a protest against Austria's attitude.<sup>79</sup> France's act, he exclaims, is a violation of the principles of international law; at any rate, it remains invalid until the “corps politique de l'Europe” will have given it its sanction. Why, Gentz asks, was no protest made? There existed no danger of war; Bonaparte does not want any at this time, and would certainly have yielded to pressure.

Gentz's last memorial to Cobenzl was instigated by an article in the *Moniteur* and presented in August, 1805.<sup>80</sup> Gentz had for some time noticed the influence on public opinion exerted by the Napoleonic press and felt great disgust; now his patience was at an end. How could the cabinet of Vienna contemplate such conduct in idleness? Did the fact still remain concealed from it that the French government had for years been tyrannizing public opinion in Europe? Most emphatically, therefore, he urges Cobenzl at last to make a solemn protest against such methods.

<sup>79</sup>*Mém. et lett. inéd.*, 59-70.

<sup>80</sup>*Ibid.*, 71-78.

Ideas similar to those of the preceding memorials are to be found in the *Projet d'une déclaration de Louis XVIII contre le titre impérial usurpé par Bonaparte* of 1804 and in the *Lettre à Sa Majesté le Roi de Suède* of 1805;<sup>61</sup> only the second of these writings, however, is of importance. On the whole this is a compliment to the king on account of his attitude towards Napoleon; yet it contains, at the same time, interesting and animated statements of Gentz's views on the old European regime, on the Revolution, on Napoleon's relations to it, and on certain points of international law. Gentz begins with the remark that he is not writing for the general public, for that feelingless, superficial, and frivolous *plebs*; he is addressing rather the very small group of people still standing for "truth, principles, and honor," and among them he counts the king. He then turns to the general situation. We live, so he states, in a time when the old order of things is making way for a new, and it must be assumed that this change was foreseen by Providence. But was the change destined for the present era, and was it to be carried out in the fashion in which it is now being carried out? Gentz believes that both questions are to be answered in the negative. According to him, it was a later period for which all that was intended which is now being realized, and for this reason he declares it to be the duty of all well-meaning people to call a halt on the further destruction of the old order of things. The Revolution has gone far enough; it has completely changed the face of France and will soon reach the ends of the civilized world. All hands, then, to the rescue! Above all, courage and determination to conquer or to die sword in hand! The duty of the rulers will be to lead on the warriors and mutually to support one another: they should promote sensible progress, but must oppose unyieldingly every attempt to overthrow the foundations of society. In this way it may be possible to preserve that which is essential in the glorious old system.

<sup>61</sup>*Ibid.*, 29-40, 79-104.

The effect of these memorials was rather slight. Gentz probably did not himself expect too much from them, if we are to take his own word for it.<sup>82</sup> Cobenzl resented them;<sup>83</sup> Archduke John, on the other hand, accepted them with approval and appears to have defended their ideas before the Emperor.<sup>84</sup> The sketch of a proclamation of the later Louis XVIII, and the letter to the king of Sweden were given wider publicity, as they were copied in foreign newspapers and even circulated in manuscript form,<sup>85</sup> and may have had a certain influence.

We have arrived at the summer of 1805. War has not yet broken out, but is on its way, even though this is not known to everyone. Gentz is in eager expectation and full of wise speculations as to what has to be done. The character of these speculations may be seen from letters to Johannes von Müller.<sup>86</sup>

In July, 1805, Gentz sends to his friend in Berlin a rather pessimistic effusion which contains a *resumé* of the whole political situation. He mourns over the lethargy prevailing at Vienna and expresses the fear that Napoleon may use the Austrian war preparations as a pretext for an attack. After further remarks on the reorganization of the war department and Emperor Francis' aversion to war, he turns to the ministry and in particular to Cobenzl. He is astonished that Austria has not opened negotiations with Russia and that a defensive agreement only has been sought. Again he characterizes an alliance with Prussia as the only way to salvation; Cobenzl puts no importance upon it, and for this reason others must be placed at the helm: "until this ministry is rooted out, no good can come about." Gentz finally throws out the idea of starting with Johannes and Adam Müller "a counter-revolution in the highest sense of the word"; what he understands by this,

<sup>82</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 193 f.

<sup>83</sup>*Tagebücher*, I, 40.

<sup>84</sup>Fournier, *Gentz und Cobenzl*, 134 f.

<sup>85</sup>Schmidt-Weissenfels, *Friedrich Gentz*, I, 177 f., 192.

<sup>86</sup>Schlesier, IV, 47-118.



indeed we do not hear, and at any rate the idea had no consequence.

By the end of August, all Austria resounded with preparations for war. What will be the outcome? Gentz is not entirely sure, but believes that the intention should be armed mediation. Bonaparte, he declares, wishes war only as long as there is no risk, and for this reason he now avoids it; besides, he is personally no longer the man that he was at the time of the *Coup d'État*. The chances of the coalition in the event of war, Gentz, it is true, does not consider as very favorable: Prussia, he states, has not been won; Russia is without a single capable general or statesman; and Austria possesses generals of second rank only.

By the beginning of September, Gentz is at last convinced that war is inevitable. He admits he has not expected this: "an almost miraculous combination" has caused this change in the situation. He looks for good results from the mission of general Meerveldt to Berlin, but is worried lest the proper instructions have not been given him; he should wish to have it explained to the king of Prussia that he could prevent the war by merely assuming an appearance of friendliness to the Coalition. In order to be sure he therefore gives Meerveldt a memorial conceived in this spirit.<sup>87</sup> On the whole he views the future calmly; "the star of the tyrant is on the wane," he will surely yield. In similar fashion Gentz expresses himself also in the middle of September. Yet he considers the Russian support as insufficient and asks Johannes von Müller to bethink himself whether there was no way of inducing the king of Prussia to join the coalition; he himself believes much could have been done along this line by personal meetings of the sovereigns, missions of archdukes and direct correspondence.

Early in October, Gentz writes for the last time in a really optimistic tone. The sending of Meerveldt and of Haugwitz to Berlin and Vienna respectively satisfies him.

<sup>87</sup>Schlesier, IV, 100.

Prussia's policy of neutrality is apparently wavering and will soon be abandoned. Napoleon now probably experiences a bad hour, for the "theatrical monarch" has never seen moments such as these; perhaps he may even get a stroke of apoplexy. A capable ministry would have an exceptional opportunity to exploit his embarrassment.

Thus wrote Gentz in the beginning of October, and never was he more sadly mistaken. Napoleon had no thought whatever of allowing himself to be intimidated. By the end of August the army concentrated at Boulogne received orders to march to the Rhine, where the emperor himself would join it. It reached this first goal somewhat earlier than had been expected outside of France; then it wound itself through the passes of the Black Forest and its northern extremity, moved, by forced marches, through the present Baden and Wurtemberg and before the middle of October, reached, in converging lines, the upper Danube. There, at Ulm, fell the first blow; Mack, the hope of the Viennese war-party, had to surrender on October 19 with about 30,000 men. The effect of the capitulation was immediate and great: the road to the heart of Austria now lay open to the French, and within the camp of the enemy doubt and despair had taken up their abode. Napoleon energetically pressed forward, and by the beginning of November he was approaching the gates of Vienna.

Ruin, then, had arrived. It had been the hope this time to overthrow the colossus, and now what a terrible disillusionment—*Hannibal ante portas!* Gentz heard the reports from the seat of war in a sort of daze; he was deeply agitated, almost beside himself, and the victim of the most contradictory emotions. At one time he gives up everything as lost and speaks of flight to Tartary, of imprisonment, even death; then again the elasticity of his temperament seems to assert itself. To friends in Berlin and London he may send hopeful letters asking them not to let their spirits fall, everything may yet turn out favorably;<sup>88</sup> but when he writes in this way he is only trying to draw himself as

<sup>88</sup>Mitteil. d. Instituts f. Österr. Geschichtsf., VII, 124 ff. XXI, 122 ff.

well as others out of despondency. In reality he soon saw the situation in its worst light, and his hatred for the originator of all this misery now knew no bounds. "The ruin of my life," he writes on October 23 to Johannes von Müller, "is for me an evil of such magnitude that everything which now may happen can but slightly affect me. Whether they drive me into Tartary or shut me up in the Temple or shoot me, is all one to me. But that Bonaparte was not beaten, that the Electors were not punished by new shame, not to be victorious—at a moment when all the meaning of life depended on victory not to win—to read in their accursed newspapers the triumphant accounts of these hell-hounds—the rejoicing of their partisans in Germany—that absorbs the mind and leaves no room for any other feeling of pain."<sup>89</sup> Again, in the same way, on November 3: "The misfortune which has come upon us is really of a kind to crush the soul and suspend the powers of thinking . . . What I cannot comprehend is how I ever could have had any hope, . . . If the emperor of Russia is firm he can yet maintain and save us; but if his courage falls in the slightest degree, or if he does not keep enough of it to give us a great deal, then peace is unavoidable or else the downfall of Europe is sealed."<sup>90</sup> Finally on November 8: "In two hours I shall leave Vienna. . . . You may appreciate the dreadful and heart-rending feelings which lie back of these words. . . . The king of Prussia is now in the truest sense of the word the arbiter of the life and death of Europe. . . . If he but wavers all is lost, and this time never to be regained. . . . Since yesterday—but why should I picture it to you? I assure you that my tears choke me when I attempt it. I am keenly convinced that the end of the world has come, and that I shall feel myself going down into my grave as soon as I leave my threshold. Farewell, I can write no more."<sup>91</sup>

As the enemy drew nearer to the capital, it became necessary to think of moving the seat of government farther

<sup>89</sup>Schlesier, IV, 125 f.

<sup>90</sup>*Ibid.*, IV, 128 ff.

<sup>91</sup>*Ibid.*, IV, 136 ff.

east. Toward the end of the first week of November, in a dark and cold night, the court, Cobenzl, and the foreign ambassadors, therefore, left Vienna for Brünn. Gentz accompanied them; but with what feelings did he travel this bitter road! The darkness which lay heavily and uncannily on the fields along the wayside, the noise of the numerous coaches and wagons, the fear of running into the hands of reconnoitering parties of the enemy, finally the piercing consciousness of entering upon a future which would, perhaps, be blacker than the night—all this cut deep and infinitely painful furrows into his already gloomy mind; “the journey to the grave,” so he writes a few days later to the faithful Adam Müller, “can not be worse than this for me.”<sup>92</sup> Brünn was, however, reached in safety, and on November 17 Gentz proceeded to Troppau in order to await there the further course of events. His mood remained, on the whole, the same. The defeats rested heavily upon him; he was in despair but not utterly so.<sup>93</sup> The Russians, he states, have fought with distinction; 20,000 Austrians are still intact, the armies are now arrayed against one another, and a decisive battle must ensue during the next few days. It is true, he adds: “Bonaparte himself is on the scene.” He now stands on a somewhat better footing with Cobenzl, for on September 14 a sort of reconciliation between the two men seems to have taken place;<sup>94</sup> he can, however, not yet forgive him his policy. “Now,” he writes, “the importance, the nullity, yet the infamy of this ministry which in other days I designated so often to the various cabinets of Europe as the real source of our common destruction, stands out in all its terrible aspects.” Colloredo has been dismissed, to Gentz’s great joy, but that does not satisfy him; he would have liked to see Cobenzl removed as well, and hopes for an intervention on the part of the Czar. He still expects Haugwitz’s mission to yield important results.

<sup>92</sup>*Briefe zw. Fr. Gentz u. A. H. Müller*, 62.

<sup>93</sup>Schlesier, IV, 141 ff.

<sup>94</sup>*Tagebücher*, I, 41.



Napoleon had in the meantime reached Vienna, and after crossing the Danube pushed the greater part of his army forward in a northeasterly direction. On November 30, the two armies stood opposite each other near the little town of Austerlitz in Moravia, and there two days later the famous battle took place which broke the third coalition and sent Pitt to an early grave.

Gentz received the news of the terrible defeat during the night of December 3. How he took it is shown by a note which he apparently wrote the same night, and which, at any rate, he cannot have written much later; the note reads: "Je viens de recevoir à l'instant une éstaffette d'Olmuetz du 10.—accablante, affreuse, déchirante. Tout est perdu, mon cher Comte; nous sommes détruits, anéantis, en plein déroute."<sup>95</sup> Again he had to flee, and this time the route to be taken was hardly less difficult and dangerous than it had been a few weeks before; he went northeast, passed the still somewhat unsafe Sudetes and made his first stop at Breslau, from where he journeyed on the Dresden. His state of mind varied: he is in despair, rouses himself again, collapses once more and ends in resolution as well as apathy. On December 10 he declares proudly: "Everything remains as it was:—I, who am also a power, make no peace, nor any truce, and the worse things go, the more sacred do I feel my duty to be, not to yield."<sup>96</sup> But then hopelessness and relaxation gain the upper hand. On December 14 he writes: "The play is coming to its close, my dear friend, and soon it will be said: *Et nunc, spectatores, plaudite!* . . . Nothing matters to these dirty rascals. . . . Oh, if they only could have perished, what a pleasure the overthrow of our monarchy would be! But to lose the provinces, honor, Germany, Europe and—the Zichys, the Uquarts, the Cobenzls, the Collenbachs, the Lamberties, the Dietrichsteins and all the rest, to have to keep these, no satisfaction, no revenge, not one of these dogs hanged or quartered—that is beyond en-

<sup>95</sup>Schlesier, IV, 166.

<sup>96</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 290.

duration. . . . No one can tell whether Bonaparte has not decided to take revenge [on Prussia] for the last two months. . . . Some evil or other is impending upon northern Germany."<sup>97</sup> Somewhat more quietly does Gentz express himself about his plans on December 16.<sup>98</sup> He thinks it to be unlikely that he will ever return to Vienna, where he would hardly be tolerated any more; as to St. Petersburg, he does not care to go there, partly on account of its climate, partly because next to cold, death and the French he hates nothing so heartily as the Russians. He shows contempt for the Austrians, but has a feeling of sympathy for them as well, and to see them scorned by these Russian "barbarians" is more than he can endure. If everything should go to ruin, he might settle somewhere in the Tyrol or Carinthia, and there live in communion with the plants and the stars; what proconsul or tyrant may rule, shall then not matter to him. At present he is ready to continue the fight along the old lines and meets, early in 1806, Stadion's suggestion that he use more caution with the remark that he can and will not be silent.<sup>99</sup> Pitt's death does not seem to have moved him very greatly; he only casually refers to it and states that the British statesman had, years before the end, passed the zenith of his fame and usefulness.<sup>100</sup>

Gentz stayed in Dresden to the end of June, 1806, and then again from the middle of July to the end of September; the last days of June and the opening days of July he spent in Teplitz, which from then on he loved so much. In the first two weeks of October, we find him at the Prussian army headquarters in Thuringia, whither he went on an invitation from Haugwitz. After a further brief stay in Dresden and Teplitz, he went to Prague and this was to remain his headquarters from then on until February, 1809. On the 18th of this month he received a communication

<sup>97</sup>Schlesier, IV, 153 ff.

<sup>98</sup>*Ibid.*, IV, 166 ff.

<sup>99</sup>*Deutsche Rundschau*, CLII, 273.

<sup>100</sup>*Ibid.*, CLII, 273 f.

from Count Stadion which summoned him to Vienna, and from this time dates his second residence in the capital city of the Austrian monarchy; this residence lasted, with some interruptions, until his death.

The time from the beginning of 1806 to the beginning of 1809 stands out, therefore, as a distinct period, and we must, consequently, treat it as such.

On the whole, Gentz remained, during these three years, his old self with all his virtues and weaknesses: he is ever active and pleasure-seeking, ever hating and loving, scolding and flattering, now ready to fight and full of animal spirits, now again depressed and *blâsé*, but yet always interested in everything that is happening in the world, and in animated contact with a great number of persons distinguished by rank, talent, or beauty. His life was not exactly very well regulated, but pleasant and interesting. At times he experienced lack of money, as for instance in 1806;<sup>101</sup> but in general he seems not to have suffered in this regard, thanks to English assistance which was again afforded him in 1807, and to occasional remittances from St. Petersburg.<sup>102</sup> When he did suffer from lack of money, it did not trouble him very greatly,<sup>103</sup> for he was used to debts and to hand-to-mouth existence. His mode of life was, with the exception of short periods of financial depression, almost as luxurious as it had been at Vienna; at the close of 1808, he even fixed up a house in Prague such as he had "hardly had in his best days in Vienna," and made his trip from Breslau to Dresden in 1806 accompanied by two couriers, a valet, two horses owned by himself and three carriages.<sup>104</sup> The summer months he spent in Tep-litz; in the years 1807 and 1808, his stay in this favoured place lasted more than sixteen weeks. He found there everything his many-sided nature desired and needed: the *crème* of Viennese society, a galaxy of charming women of

<sup>101</sup>*Tagebücher*, I, 46, 49.

<sup>102</sup>*Ibid.*, I, 47, 51 f.

<sup>103</sup>*Ibid.*, I, 46, 49.

<sup>104</sup>*Ibid.*, I, 57, 43.

rank and wealth, distinguished visitors from Prussia and the "Empire," an army of haters of Napoleon, a mild climate and the lovely scenery of the entire European landscape. The character of the natives, too, appealed to him. "I cannot describe to you," he assures Adam Müller in the summer of 1807, "how well I have felt since I have been staying in Bohemia. The honesty of the Austrians, their faithfulness and active sympathy with Prussia's misfortune without a single exception, their good wishes for the future, their very positive good-will, their hope and confidence—all this has endeared them to me anew. . . . Long live southern Germany!"<sup>105</sup> At one time, it is true, he was on the point of leaving at the very height of the season and despite all these splendid features, all on account of a dreadful storm; only a solemn oath on the part of his landlord that under the zenith of Teplitz no such natural phenomenon had been observed for a hundred years, was able to turn him from his purpose.<sup>106</sup>

Within this outward life, however, Gentz busied himself restlessly to attain the aim that still was his, first and last: the liberation of Europe from French oppression. His actions and plans in this direction may, again, be learned from his personal and political letters, his publications and his diaries.

Turning to Gentz's personal correspondence we find a number of not uninteresting remarks pertaining to the present and future.<sup>107</sup> At the head stands his hatred for Napoleon; "toward him," so runs one of these remarks, "toward him alone should all our hatred be directed and devoted in the full conviction that nothing stands in the way of the world's peace save his existence alone." Yet, in spite of this, he again feels some confidence in the future, and conjures his friends to persist in the struggle. Austria, it is true, had in the meantime made peace with Napoleon

<sup>105</sup>*Briefw. zw. Fr. Gentz u. A. H. Müller*, 117.

<sup>106</sup>*Ibid.*, 101 f.

<sup>107</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 273, 280, 285 f. *Briefw. zw. Fr. Gentz u. A. H. Müller*, 106, 118, 152 f.



and could, therefore, at present no longer be considered; but, as to the future, to hope was not impossible, for at the end of December, Cobenzl and Collenbach had at last resigned from office, and now the clever, decisive Stadion stood at the head of the foreign office at Vienna. At any rate, Russia and England were still at war with France; how if the Prussian cabinet and king were now forced to make common cause with them? Gentz had formerly fought this idea most emphatically, when it had proceeded from these two powers;<sup>108</sup> now he himself accepts it for the moment and sees "most decisive scenes enacted in northern Germany": Haugwitz, Lombard, and Lucchesini at the wheel, the country is a *levée en masse* against France and the king forced to resistance, or—Prussia laid at the feet of the tyrant. A fight then to the end, a duel without mercy, and one single purpose: victory or destruction; possibly the latter, but also victory, perhaps, for Gentz has, even now, an instinctive faith, as may be seen from the introduction to his *Fragmente*,<sup>109</sup> that the palm would ultimately fall to him who remained firm and watchful to the end. His immediate object, it is true, now seems to be an acceptable, "reasonable" peace, which would give an opportunity of organizing everything anew and carrying on the struggle later, with better chances of success; in this way, at least, he replies to an inquiry from St. Petersburg sent to him in May, 1806. The Oubril treaty between Russia and France of July, 1806—which, it is true, was not ratified—was a heavy blow to him; he comments upon it in these words: "now everything is over, everything is dead and gone." And in this mood of almost unconditional hopelessness he remains until the beginning of 1809. The most dreadful aspect of the situation, he states in October, 1807, is its "final character" and the absence of all prospects for a reversal. He dares entertain hopes only for the more remote future; as to the present, nothing is to be expected any more from it, not even from Spain. Only at the head

<sup>108</sup>Schlesier, IV, 117, 159.

<sup>109</sup>Cf. p. 128.

of a few hundred thousand men could one speak to Napoleon a word that would carry weight, but this *ultima ratio* of all negotiations with him—where is it?

Gentz published during these years the following three works: *Fragmente aus der neuesten Geschichte des politischen Gleichgewichts in Europa; Authentische Darstellung des Verhältnisses zwischen England und Spanien vor und bei dem Ausbruche des Kriegs zwischen den beiden Mächten*; and *Observations sur la negotiation entre l'Angleterre et la France en 1806*.<sup>110</sup> Of these the first mentioned is the most important.

The *Fragmente* make up a somewhat heterogeneous whole. Their text was written in the months of September and October of 1805, their introduction, however, in the beginning of 1806, and the whole work was published in the summer of 1806. The political situations at the times when these parts originated were thus quite different, and to this is attributable the differences of tone pervading the whole work: the text is still optimistic, the introduction, however, even though decided, is filled with forebodings. The latter only is of interest here and it may be well to make clear its general character by means of a few citations. Gentz first submits the question from whom help may be expected, and finds that there is no counting either on governments or on public opinion; one hope only is left, the small group of "the strong, the pure and the good." To these he turns, therefore, demanding of them in incisive and fiery words to hold out. "You to whom these words are first addressed," he writes, "you the lone pride of our country, you who are high of purpose and subdued by no misfortune, Germans worthy of the name—he not weary, despair not. . . . The real task of liberation must be performed on German soil. Here the restoration must begin just as here the ruin was accomplished and destruction brought to its completion. Europe fell through Germany; through Germany it must rise again. . . . Our inward

<sup>110</sup>Weick, IV, 1-199; III, 1-370. *Mém. et lett. inéd.*, 105-220.

and fatal dissension, the distraction of our great strength, the mutual rivalries of our princes and the mutual estrangement of their peoples, the extinction of every genuine feeling for the common interests of the nation, the dormancy of national spirit—these have been the conquerors, these the destroyers of our freedom, these our deadly enemies and the enemies of Europe. . . . Divided we fell; only united can we rise again. . . . You must fight as long as there is breath left in you. . . . Remember how even in idle sports every untimely rest is dangerous for those who have started in the race, and how the maxim of the victorious is to press on toward the goal with ceaseless and ever renewed energy. In your career, to pause is fatal. As soon as you stop, you lose your power, the sleep of hopelessness overcomes you, and the night which surrounds you on all sides settles down upon you with all its horrors. The more persistently, the more earnestly you press forward, the more surely will your weariness leave you, the sooner hopes bearing the freshness of morning dawn will spring up in you.”<sup>111</sup> The text of the *Fragments* itself gives an historical retrospect of the events of the years just past, and from it we may be allowed to quote at least the following passage: “Whether Bonaparte has really conceived the idea of a universal monarchy in his proud and gloomy soul, and in what shape he has conceived it, and how far he has carried it in his imagination, and when and how he has thought to realize it—all this only the future will reveal. This much is clear and certain, however: for six dreadful years he has done without intermission that which he had to do with the worst designs in view, and he has succeeded in taking steps which seem to forebode in no uncertain way the most dreadful and desperate outcome possible.”<sup>112</sup>

Besides these publications, the following memorials belong to this period: *Über die Ursachen des unglücklichen*

<sup>111</sup>Weick, IV, 29 ff.

<sup>112</sup>*Ibid.*, IV, 69.

*Ganges des letzten Feldzugs* (spring of 1806), which is known to us only fragmentarily;<sup>113</sup> a second, *Sur les moyens de mettre un terme aux malheurs et aux dangers de l'Europe et sur les principes d'une pacification générale* (summer of 1806);<sup>114</sup> a third, addressed to the Russian minister Budberg and to the Czar (spring of 1807);<sup>115</sup> a fourth, on the Russian war-manifesto (spring of 1808), which was sent to Canning and is also unknown;<sup>116</sup> and lastly a fifth, *Was würde das Haus Österreich unter den jetzigen Umständen zu beschliessen haben, um Deutschland auf eine dauerhafte Weise von fremder Gewalt zu befreien?* (close of 1808 and beginning of 1809).<sup>117</sup> To give the contents of these memorials in detail does not lie within the province of our present consideration. It may, however, be mentioned that Gentz again demands an Austro-Prussian alliance as the foundation for an enduring European peace, that he terms the liberation of Germany the most important common interest of Europe, that he projects the plan for a new German federal constitution and advises Austria to transfer its center of gravity towards Hungary.<sup>118</sup> Most interesting perhaps are the propositions made in the memorial to Budberg of April, 1807, that is to say, of the time between Eylau and Friedland; they have as their purpose to force Austria either to join the Russian-Prussian combination, or to make peace at once and save her strength for a later struggle.

The number of prominent persons with whom Gentz came in contact during this period was, according to his own testimony, "enormous." Among them he mentions Prince Louis Ferdinand of Prussia, the dukes of Weimar and Coburg, with whom he plunged into "endless enjoyment and frivolities," many names from the Bohemian no-

<sup>113</sup>Schlesier, IV, 207 ff.

<sup>114</sup>*Aus dem Nachlasse*, II, 7-99.

<sup>115</sup>Martens, *Recueil des Traités*, VI, 479 (abridged).

<sup>116</sup>*Tagebücher*, I, 53.

<sup>117</sup>*Aus dem Nachlasse*, II, 109-158.

<sup>118</sup>*Ibid.*, II, 156 ff., 135 ff., 97.



bility, the Princess of Solms, a sister of Queen Louise, who for several years was destined to stand at the head of those whom he adored, Madame de Staël and A. W. Schlegel, certain Prussian and Russian generals, Wintzingerode, Metternich, and, lastly, Baron Stein.<sup>119</sup> Gentz met the latter for the first time at Dresden in August, 1806, and saw him again in January, 1809, at Prague, where they discussed plans for the future in daily conversations.<sup>120</sup> Stein went from Prague on to Brünn, and received there, through Gentz, an invitation from Stadion to come to Vienna.<sup>121</sup> Gentz always speaks of Stein with high regard, and the latter's resignation in 1808 concerned him much; he was even prepared to grant him "the dictatorship in the real, ancient Roman sense of the word over everything which has to be undertaken for the salvation of Germany."<sup>122</sup> Stein for his part was not quite so enthusiastic over Gentz; he acknowledged, however, his courage and political loyalty. Whether the two men influenced one another and if so, in how far, is not easy to determine and would certainly require minute investigations.

That this intercourse of Gentz's was not politically unimportant is clear enough and is confirmed by Napoleon's attitude toward him. As a rule Napoleon paid but slight attention to foes of Gentz's rank; at times, however, he did proceed against such, as for example against the unfortunate Palm. His attention was turned toward Gentz by the Prussian war-manifesto of 1806, which he attributed to him, at least for a time, and one of his bulletins of 1806 denounced to the world this wretched writer. In the summer of 1808, Napoleon received word, through his agents, that there was located in the Bohemian baths a band of confederates who had relations with London and Vienna and were under the leadership of this same Gentz; the presence of Madame de Staël was also properly empha-

<sup>119</sup>*Tagebücher*, I, 44 ff.

<sup>120</sup>*Ibid.*, I, 58 f.

<sup>121</sup>Schmidt-Weissenfels, *Friedrich Gentz*, I, 302.

<sup>122</sup>Pertz, *Leben des Ministers Freiherrn vom Stein*, II, 331.

sized.<sup>123</sup> The result was that he immediately ordered the suppression of Gentz's correspondence with this lady, and renewed his attacks upon the conspirator through the French and German press that was dependent upon him. Nothing further, however, came of it, for a course such as had been pursued against Palm or Stein was then not to be thought of in dealing with Austria.

As concerns Gentz's more official relations to the powers of the old Coalition, those with Prussia were of predominant importance. Especially interesting is the journey which he undertook in October, 1806, and at Haugwitz's invitation, to the Prussian headquarters in Thuringia.<sup>124</sup> His stay there lasted ten days, from the 3rd to the 12th of October, and during this time he had numerous conversations with leading Prussian personages such as with the duke of Brunswick, with Counts Kalkreuth and Götzen, the Marquis Lucchesini, Lombard, and Haugwitz; the last three formed the trio which Gentz, half a year before, had wished death on the wheel. From Haugwitz he learned at once the alleged reason for his invitation: his visit was desired in order that he might be convinced of the purity and expediency of the present Prussian policy. In further conversations, Haugwitz explained the objects of this policy in detail and touched, at the same time, once more upon the motive for calling Gentz: what was desired of him, so Haugwitz explained, was less his counsel or his help as a publicist than his good will in general; Prussia was accused of unreliability and duplicity, without having deserved it at all, and this suspicion Gentz could aid in destroying at Vienna and elsewhere. Finally, Haugwitz asked whether Gentz was in a position to give any information about the intentions of the Austrian cabinet. To this Gentz replied in the negative, adding that it would perhaps be more to the purpose to let the past rest and to hope for a justification in the eyes of the public from

<sup>123</sup>Häusser, *Deutsche Geschichte*, III, 315.

<sup>124</sup>His journal on this voyage is published in *Mém. et lett. inéd.* 221-349.

Prussia's present attitude. The succeeding days were spent principally in conversation with Lombard, with whom Gentz had become acquainted earlier at Berlin. Lombard first spoke at length on the necessity of the former Prussian policy of neutrality, in which he himself had taken a leading part, and then gave Gentz the plan of a letter from the king to Napoleon with the request that he read it and give his opinion on it. Gentz acquiesced in the request and raised various objections. Later Lombard presented a second sketch, that of the Prussian war-manifesto, the composition of which had also been entrusted to him. Again Gentz made unfavorable criticisms, and on his suggestion certain passages were stricken out, such as those concerning the affairs of the duke of Enghien, and the attempts at influencing the later Louis XVIII to renounce his claims to the throne; also others concerning the English control of the seas and the probable attitude of Austria. Finally, Gentz undertook the translation of the manifesto into German, without, however, being in full agreement with either its form or its contents. From certain indications he concluded that the impression which his presence at the Prussian headquarters was bound to make upon the outside world had been the real basis of his invitation.

In connection with this journey there are still other instances to be mentioned in which Gentz came into touch, in a more or less official way, with Prussian men of prominence. On his own testimony, he formed, in September, 1806—that is to say immediately before this journey—a connecting link between Berlin and Vienna<sup>125</sup> and urged in July, 1806, the king of Sweden to desist from war with Prussia.<sup>126</sup> In January, 1807, he negotiated with Count Götzen on his own responsibility concerning the temporary occupation of the Prussian fortresses in Silesia by Austrian troops.<sup>127</sup>

Gentz's relations with London remained active, al-

<sup>125</sup>Schlesier, IV, 262.

<sup>126</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 455.

<sup>127</sup>*Tagebücher*, I, 51.

though we have but little information as to the reports and suggestions that he sent there. The most important of what we do know is a letter to Canning, written in June, 1808.<sup>128</sup> Gentz offers in this two suggestions: England is either to leave the Continent to itself, to bring Spanish America into its own power and in this way to weaken Spain directly and Napoleon indirectly—or, in case she should contemplate holding to the Continent, to work in conjunction with Austria. Incidentally we also hear that he sends expositions of his views to the English press.<sup>129</sup>

Thus three years of a restless, but on the whole not unpleasant exile had passed by, when the long awaited hour of Gentz's official recognition struck at last. In February, 1809, Stadion, Cobenzl's successor, called him to Vienna, and from this dates a new period in his life: he now entered the inner circle of the *Staatskanzlei*, which he was never to leave again.

Austria once more rose against Napoleon early in 1809, and when war was already as good as certain, Gentz received the commission of writing the war-manifesto. As Napoleon drew nearer Vienna for a second time, Gentz fled to Dotis, where the court and the high dignitaries were staying; at the end of October, he went on to Prague. In February, 1810, we find him, however, again at Vienna. He had a share in the protracted peace negotiations of the summer of 1809, or better, in the struggles and intrigues among the various parties at court and within the government pertaining to these negotiations. If we should attempt to form an exact estimate of his activity during this time, from his own accounts<sup>130</sup> and from other materials,<sup>131</sup> we should find that Gentz considered a really dishonorable peace as unacceptable, but urged the conclusion of a peace under conditions which could be endured; when Napoleon had modified his original demands, Gentz insisted upon accepting them.

<sup>128</sup>Mitteil. d. Instituts f. Österr. Geschichtsf., XXI, 148 ff.

<sup>129</sup>Deutsche Rundschau, CLII, 274.

<sup>130</sup>Tagebücher, I, 70-208.

<sup>131</sup>Deutsche Rundschau, CXXXIV, 223-251.



But what was now to become of himself? As early as 1806 and again in 1808, he had attracted Napoleon's attention, and in July, 1809, even one of his letters to Count Stadion fell into the hands of the French.<sup>132</sup> Something unpleasant was surely to be expected, and hence Gentz asked his English friends to find him a suitable place of refuge in England.<sup>133</sup>

### 3. 1813-1815.

The years 1810-1812 form a period of rest in Gentz's life. The insatiable apostle of war and one-time conspirator is now living most of the time in comparative quiet at Vienna, where at last he begins to receive official recognition; occasionally we find him in Teplitz. He has suspended the struggle against Napoleon for the time being and is silent. Even toward his friends he is now rather uncommunicative, although this apparent fact may be due to the loss of the greater part of the letters that he wrote to them during this time.

The political situation of Europe and especially that of Austria had, in the meantime, changed essentially. The disastrous outcome of the war of 1809 imposed upon Austria the necessity of a complete break, at least for the present, with her previous policy, and of seeking a union with France. Stadion was, therefore, released and Metternich, the Austrian ambassador at Paris, took his place. In the spring of 1810 the marriage of Napoleon with a daughter of Emperor Francis took place and by this marriage there was added to the political bonds between the two countries a dynastic one as well. For the time being the cabinet of Vienna felt, therefore, assured and even flattered, and in a certain sense rightly so, for the French marriage was indeed an Austrian success. Whether this was good politics for the future, was, however, less certain. A clearing up of the European atmosphere on a large scale had not

<sup>132</sup>*Ibid.*, CXXXXIV, 234.

<sup>133</sup>Guglia, *Friedrich v. Gentz*, 230.

yet been attained; on the contrary, the huge conflict which for years had divided Europe into two camps, had now in reality become even more tremendous. After having attached Italy and the petty German states to himself, after having thrice conquered Austria and rendered Prussia almost defenseless, Napoleon found England still in arms, Spain in open rebellion, and Russia on the point of slipping from his grasp. It was rather probable that he would not give up his fight with England and the Spanish insurgents. With Russia he might get along for some time yet; but it was also possible that matters there might come to an open break, and in such an event Austria was in danger of being drawn into the vortex.

The immediate effect of these conditions on Gentz's situation was that he had to wait and remain silent; such conduct was perhaps even imposed upon him officially.<sup>134</sup> He had for a long time been personally acquainted with Metternich, and from all appearances did not now find it hard to work under him. During the years 1810 and 1811, he was employed by him only from time to time, and then for the most part on financial treatises;<sup>135</sup> after 1812, however, Metternich entrusted to him strictly political work as well, and Gentz himself later designates the end of this year as the beginning of his real political activity.<sup>136</sup> In 1812 he writes, upon his own initiative, two treatises on maritime law in which he defends the English standpoint; their method of argumentation is essentially historical,<sup>137</sup> and the fact that Gentz could thus still champion the interests of England shows that the injunction to silence laid upon him could not have been absolute. On the whole his life is, during these three years, somewhat uneventful. He repeatedly asserts that he still stands where he did, so far as principles and inclinations are concerned, but con-

<sup>134</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 341.

<sup>135</sup>*Tagebücher*, I, 214, 255, 234. On pp. 220 ff. Gentz mentions, however, such an order.

<sup>136</sup>Schlesier, V, 320 f.

<sup>137</sup>*Mém. et lett. inéd.*, 347-452.

fesses that he has learned to be more quiet, more just, more tolerant and more cool-headed.<sup>138</sup>

Gentz raises no objections to Napoleon's marriage with Marie Louise after it has been decided upon; he favors it, however, only for political and not for any human reasons.<sup>139</sup> The death of Queen Louise touches him deeply and he remarks not unjustly that by it Prussia has lost the only great decoration which it still possessed.<sup>140</sup> The fate of the Prussian state itself concerns him rather little; he, a Prussian by birth, goes even so far as to call, without any show of emotion, his native state a "dying machine".<sup>141</sup> As to England, his views now have changed; his attitude toward this power is, for the time being, markedly less favorable than formerly, and he defends this turn by referring to the change of conditions.<sup>142</sup> According to him, England should fall in with the other powers and come to terms with France; her present relations to the Continent must end, for they are, to a degree, pitiable as well as antagonistic to the common interests.<sup>143</sup> The fact that by this time English newspapers and magazines had become well-nigh inaccessible to Continental readers seriously inconvenienced him.<sup>144</sup> To his still greater discomfort, however, the English remittances ceased to come during 1809;<sup>145</sup> by favoring a speedy conclusion of peace in 1809 Gentz had become *persona non grata* to the powers at London and was now to be punished for his independent attitude.<sup>146</sup> In 1811, it is true, remittances from England seem to have arrived once more.<sup>147</sup> Personally Gentz is mostly on the move; in October, 1810, for instance, he informs Brinckmann where letters will reach him: "on the route from Dresden to

<sup>138</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 306 f.

<sup>139</sup>Fournier, *Gentz und Wessenberg*, 35 f.

<sup>140</sup>*Briefe v. u. a. Fr. v. Gentz*, I, 309.

<sup>141</sup>*Ibid.*, I, 309.

<sup>142</sup>Fournier, *Gentz und Wessenberg*, 37.

<sup>143</sup>*Ibid.*, 37, 45. *Briefe v. u. a. Fr. v. Gentz*, I, 305.

<sup>144</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 314, 317.

<sup>145</sup>*Tagebücher*, I, 214.

<sup>146</sup>*Preuss. Jahrb.*, CX, 495.

<sup>147</sup>*Tagebücher*, I, 255 f.

Vienna, either in Vienna itself or in Prague, or in Teplitz, or in the country somewhere near this route."<sup>148</sup> The charming Teplitz attracted him above everything else, and should we care to look in upon him there, we might enjoy the spectacle of this ever young gallant and man of society in devoted and boundless adoration of the many bright lights in the heaven of feminine grace.<sup>149</sup>

Almost three years had passed, in this fashion, after the conclusion of peace, when the great turn of affairs which Gentz was hoping for finally came, although he was not divining its coming and did not hail it with joy. Napoleon at last definitely broke with the Czar, and in the summer of 1812, actual hostilities began. Gentz deplored this renewal of the conflict between the leading powers on the Continent as a pernicious disturbance of the European peace, and was especially aroused over the Russian proclamation urging the formation of a German legion; to take a step such as this, he declared in full harmony with his political theories, was tantamount to inviting foreign subjects to render a verdict on their own governments.<sup>150</sup> He hoped for French reverses,<sup>151</sup> but heard, during the next months, only this much, that the armies of the emperor were irresistably moving toward Moscow. After the middle of November, reports of Napoleon's embarrassment came in, and by the middle of December Vienna heard of his flight from Russia and the dispatch of an Austrian negotiator to Paris. The moment was, as Gentz rightly observed, "immensely critical." The question was: what was Austria to do now? For the time being, everybody was in darkness as to that; Metternich might, perhaps, have given some light, but preferred to remain silent, partially even toward Gentz.

While Napoleon was making energetic preparations for a new campaign, Gentz began once more to wield his

<sup>148</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 313.

<sup>149</sup>*Ibid.*, II, 288 ff., 313, 422.

<sup>150</sup>*Deutsche Rundschau*, CLII, 443 f.

<sup>151</sup>*Tagebücher*, I, 260 ff.



pen with the old vigor. What was he striving for? If we survey his activity from the spring of 1813 to the summer of 1814, we may, as regards his policies, divide it into four periods: 1. spring, 1813, until the battle of Bautzen, May 20-21; 2. from Bautzen to the Austrian declaration of war against France, middle of August; 3. from the declaration of war to the battle of Leipzig, October 18; 4. from Leipzig to the conclusion of peace in 1814.

The lines of division between these periods are marked, as will be seen, by events of a more or less military character, and this fact is not without significance as to the conception of the Gentz of this period. Gentz is, by this time, no more the old rash idealist; he has rather become a man open to the realities of life, a *Realpolitiker* who cares first of all for success. Caution now guides his actions. He carefully weighs the chances of each side from case to case before deciding in favour of any line of policy and is ready to change political tactics as soon as conditions change; he has learned that to avoid risking the loss of everything a statesman may, at times, have to leave his tracks and take up another road.

Gentz retained, during this period, his general political aims, especially that of the European balance of power; yet he pursued them less vigorously, for he directed his attention now no less to the particular interests of Austria than to those of Europe in general. His immediate aim was, at first, to make the Habsburg monarchy independent of France, to reduce the French power to its proper limits and have some of the territories ceded by Austria and Prussia during the last years restored to them; this being accomplished, the European balance of power would, of course, re-establish itself automatically. Soon, however, as early as in the summer of 1813, Gentz began to become markedly distrustful of Russia and Prussia and to emphasize more and more, in like gradation, the special interests of Austria. He has, on account of this, been harshly criticised, and his political attitude during the campaign of 1814 does indeed deserve some criticism; however, if we try to do him

justice, we can not seriously accuse him of having left his colors. He was ready, then as ever, to fight for his principles, provided that the fight was not hopeless and others acted with him; but it was just this provision which, as he thought to discover, remained unfulfilled. If he now, in the spring and summer of 1813, counselled avoiding war, if he later opposed its continuance and emphasized the specifically Austrian interests, he did so from fear of Napoleon and—of Austria's allies.

Until about the end of May, 1813, Gentz's utterances breathe a rather decided, though not a warlike, spirit. He urges Nesselrode at St. Petersburg, in case of war breaking out once more, to put before Austria the alternative of either declaring its neutrality or of binding itself secretly to co-operation with Russia.<sup>152</sup> Similar in their purport, but clearer and more detailed are his remarks to Wessenberg, then Austrian envoy at Munich, dating from March and May of the same year.<sup>153</sup> Gentz's paramount idea there is that of the necessity of common action between the three eastern powers; Austria, he states without any sign of disapproval, made declarations to Russia and Prussia which are such as to bind her to both. Of almost equal importance is the thought of inducing Napoleon to make concessions without recurring to war; Gentz seems to assume that this plan might be realized, though he does not expressly say so. The concessions referred to would consist, in the main, in the ceding of Germany, Italy and Spain; should Napoleon refuse to agree to them, then Austria would, after its declarations, have to join Russia and Prussia. Austria must, at any rate, avoid all dilatory measures and prepare for war. As to England, Gentz declares it was to be hoped that this power would not make peace impossible by taking up an obstinate attitude. Even on May 2, the day of the battle of Gross-Görschen, he writes that Austria was to join the allies irrespective of a possible early reverse.

<sup>152</sup>*Lettres et papiers du chancelier comte de Nesselrode*, V, 27 ff.

<sup>153</sup>Fournier, *Gentz und Wessenberg*, 62-66, 74.

In the meantime, Napoleon had again appeared in Germany and opened the campaign in Saxony at the head of a somewhat composite but strong army. On May 2 there followed the battle of Gross-Görschen, and on May 20-21 that of Bautzen, both of which were victories for the French; on June 4, an armistice of several weeks was concluded between the belligerents, and during it both sides tried to get support from the rear and to win over Austria. Cobenzl's aims before 1805 had, then, at last become more than a dream: Austria was now the mediator between the rival powers, holding the balance of decision in her hands. Which of the contesting parties was the better to side with was not clear yet; Napoleon might be the stronger at present, but every passing hour must reduce his superiority. Austria's interests demanded, therefore, that the pros and cons be weighed in the most careful manner, and this task Metternich now took in hand with the objectivity of the cool calculator.

That the two Napoleonic victories did not fail to impress Gentz may be seen from his letters written to Metternich and Wessenberg during May, June and July, 1813. They re-established to him, for the present, the military reputation and general prestige of the emperor; and from this he drew forthwith conclusions. In the beginning of June he frankly acknowledges Napoleon's "immense military superiority" and "art", declaring that the prospects of the allies were far from splendid; even if Austria should join the latter, the issue of the war would, to him, remain "very doubtful", and this the statesmen at Vienna might well take into account before coming to any decision.<sup>154</sup> Should Austria decide upon war against Napoleon, so he explains, in the beginning of July, to Wessenberg, it would have to concentrate its main army on the Elbe, while at the same time an army of some 60,000 men might be formed in Bavaria to be pushed forth toward the Austrian left flank.<sup>155</sup>

Gentz considered, nevertheless, this superiority as but

<sup>154</sup>*Ibid.*, 74 ff. *Deutsche Rundschau*, CLII, 446.

<sup>155</sup>Fournier, *Gentz und Wessenberg*, 82.

a temporary one. Napoleon, he writes to Metternich in June,<sup>156</sup> long ago passed the zenith of his career and is now on the road to "certain ruin"; Austria has, therefore, but to find out whether his ruin will be hastened more by war or by keeping peace, and Gentz believes that this question must be answered in favour of the first side of the alternative. Should Austria, he states, join the allies and the war be continued, Napoleon would only be given an opportunity of inflicting a deadly blow on the Habsburg Empire while he still possesses the power to do so; that, however, would mean the postponement of the liberation of Europe. On the other hand, could the present crisis be passed without bloodshed, then Austria and the Continent might save their forces for a later and decisive struggle. To pass the crisis peacefully does to Gentz, it is true, not mean to allow present conditions to continue. These conditions must be changed, on that point, he thinks, everybody in Austria is agreed; and they must be changed by means of diplomatic negotiations with France tending toward a settlement of the crisis through French concessions. But of what kind should these be? Gentz answers the question extensively in a letter to Metternich of the middle of June. He there distinguishes—it is true, not very clearly—between the concessions to be granted by France in return for a "truce", that is a temporary peace, and those of the permanent peace. The first would comprise the dissolution of the duchy of Warsaw, a "restitution" of Prussia by the cession of Magdeburg and the evacuation of Hamburg, finally the cession to Austria of at least the Illyrian provinces; Gentz would, perhaps, be satisfied even with the granting of the first of these three points. A permanent peace, on the other hand, would have to be preceeded by France's renunciation of every direct and indirect influence over Germany, eastern and central Italy. Whether Gentz seriously expected that Napoleon would consent to such concessions is hard to say. In general, he seems to ignore

<sup>156</sup>*Deutsche Rundschau*, CLII, 446 f.



the possibility of a refusal on the part of Napoleon; at times, however, as for instance in the middle of June, he shows that he takes this possibility into account.<sup>157</sup>

Gentz nowhere suggests, at this time, that Austria should negotiate with Napoleon separately; he undoubtedly thinks of a joint action of the three eastern powers. Somewhat varying, however, are his views on the particular manner and the intensity of this action. In a letter to Metternich of June 5, for instance, he appears to be rather uneasy lest Austria might have become too intimate with Russia and Prussia, and again, five days later he emphasizes the great importance of Austria's co-operation with these powers;<sup>158</sup> possibly this wavering resulted from his having received, in the interval between the two letters, certain information from Metternich that is unknown to us. On the whole, it may be said that Gentz at that time, did not wish Austria seriously to bind itself in any way, and on this account he gravely criticises Metternich for concluding the treaty of Reichenbach.<sup>159</sup> Austria, he states, is entirely free to act as she sees fit; she is now the "center of protest" against the Napoleonic hegemony, and when the time shall have come for Europe to order her affairs definitively, this settlement will be arrived at under Austrian leadership.<sup>160</sup>

At the beginning of June, Gentz went to Ratiborwitz in Bohemia in order to watch, at short range, the course of events; for there or near by had gathered the sovereigns and prime ministers of the three eastern powers. Soon, he boasts to Rahel: "I have chosen this place as my headquarters because I am situated here in the midst of all the great transactions, and am yet enjoying all the comforts and pleasures of life. . . . I know everything; no one on earth knows what I know of contemporary history, for

<sup>157</sup>*Ibid.*, CLII, 453.

<sup>158</sup>*Ibid.*, CLII, 447, 450.

<sup>159</sup>*Ibid.*, CLII, 460.

<sup>160</sup>*Ibid.*, CLII, 446. Fournier, *Gentz und Wessenberg*, 77, note.

nobody ever was or can be in such deep intimacy with so many leading parties and individuals".<sup>161</sup> In this, of course, he exaggerates. Much, no doubt, but certainly not everything reached his ear; what he did learn often came to him indirectly. Metternich does not seem to have taken him into his innermost confidence; at any rate, he failed to inform Gentz properly about Austria's negotiations with Russia and Prussia in the spring of 1813 as well as of the later conclusion of the truce and the treaty of Reichenbach.<sup>162</sup> On the other hand, it is perfectly probable that Gentz met, at Ratiborzitz, many persons of the first rank and importance, and some of these he must have met in a semi-official way; among them were W. von Humboldt and Nesselrode with whom he conferred concerning the agreement of Reichenbach. In the middle of June Gentz was received by the Czar, and one of his letters to Metternich contains a report of the conversation carried on by the two men.<sup>163</sup> Gentz found the Czar ready to make advances to Austria and spoke, in his turn, frankly about the general situation as he saw it. It was important, he explained, not to forget that the attitude of the three eastern powers to the war-question were rather different: to Prussia the war was one of necessity, almost of despair; to Russia half a matter of honour, and half one of political calculations; to Austria, finally, a pure problem of business. Metternich had, at any rate, to act simply and purely "as an Austrian minister", and this the Czar, Gentz added, would probably agree to. The main point was that the three powers should stand together, to make effective their attitude of protest against the present conditions and against "*tout système d'enrichissement et de prépondérance*"; this protest should form "the fundamental law of every anti-Napoleonic policy and an almost certain basis for the gradual restoration of the balance of power and order in Europe." Finally, Gentz remarked that the ques-

<sup>161</sup>Schlesier, I, 126 ff.

<sup>162</sup>Deutsche Rundschau, CLII, 447, 451 f., 460.

<sup>163</sup>Ibid., CLII, 455 ff.

tion as to the continuation of the war should be decided upon only by Russia, Prussia and Austria in common.

In the middle of July Gentz went with Metternich to the congress held at Prague; he was not allowed admittance to its sessions, but otherwise, Metternich treated him not without confidence and gave him, at the end of July, the commission to prepare a war-manifesto.<sup>164</sup> As the transactions in Prague did not result in anything, Austria in the second week of August declared war against France. A few days later, Metternich left Prague, and returned to the army. Gentz remained there for the time being, and not until December did he go to the headquarters of the allies. The three months which he thus spent in the Bohemian capital made up, perhaps, the period of his life in which for the first time he felt completely happy; another like period came with the Congress of Vienna. According to his own testimony he was at this time "the intermediary in all important political relations between Vienna and the headquarters, the channel of all authentic news, the centre of all diplomatic circles and of all diplomacy;" he was "highly honored" at Prague, his name had become "great", his health left nothing to be desired, he had money in plenty and the Emperor deigned to nominate him as court counsellor.<sup>165</sup> If these statements are correct, Gentz was then the actual civil head of the government in Prague; at any rate, he was one of its heads, especially since the censorship of the press in that city lay in his hands. At one time he gives Rahel a pretty description of his various duties and activities: "Today," he writes, "I have already the following behind me—the correction of the papers—a trip to the general in command and an hour's conversation with him—the dispatch of a courier to Linz and Teplitz—and an hour ago, receiving a special courier from Teplitz, whom Metternich sent me this morning, and the re-dispatching of this courier to Vienna. It is now three

<sup>164</sup>*Tagebücher*, I, 264 f.

<sup>165</sup>*Ibid.*, I, 266 f.

o'clock."<sup>166</sup> In the beginning of October, Stein came through Prague and offered Gentz, according to his statement, a place in the commission, formed for the administration of the territories about to be conquered.<sup>167</sup> Up to Metternich's departure from Prague, Gentz had "many important conversations" with him, "particularly about German affairs;" it is not without interest to hear him assert that the main content of these conversations was the new spirit of Prussia, as well as the fear that the fall of Napoleon might bring, instead of a restoration, a second revolution.<sup>168</sup> As Gentz himself says, it was he who first expressed these fears, and from this we may conclude that they were at that time no longer new with him; apparently, they had formed one of his chief reasons for opposing war in June of this year.

In the beginning of December, Gentz left Prague to go to the headquarters of the allies at Freiburg i. B. and took there part in the discussions concerning a march of the allies through Switzerland.<sup>169</sup> In January, 1814, he returned to Vienna, where up to the convening of the congress a series of duties occupied him: he kept up a lively correspondence with Metternich and drafted several memorials to him, of which however only a single one is known; he exercised the censorship of the political newspapers supplying them, at the same time, with articles, translated manifestos, held the position of informant to the Hospodar of Wallachia, Caradja, for which he had been recommended by Metternich in 1812, and fulfilled, finally, his old duties of social intercourse.

In passing, we may call attention to a remark that Gentz makes, in his diaries, on his journey from Prague to Freiburg.<sup>170</sup> As he tells us, he ascended the "high mountain" over which the road leads near Schwäbisch-Hall on

<sup>166</sup>Schlesier, I, 150.

<sup>167</sup>*Tagebücher*, I, 268.

<sup>168</sup>*Ibid.*, I, 269.

<sup>169</sup>*Ibid.*, I, 272.

<sup>170</sup>*Ibid.*, I, 271 f.



foot and without any discomfort, and concludes from this that his strength and health must be good. As a matter of fact, we may gather from this report only this much, that Gentz must, by this time, have arrived at a rather high degree of physical inactivity and feebleness, for there are no "high mountains" whatever in Swabian Franconia. Indeed, he was so used to a comfortable, luxurious life that in 1813 he could write concerning his stay in Prague, quite after the fashion of a *beatus possidens*: "One of the best French cooks . . . accompanied me everywhere. My domestic life was entirely as I wished it, it was all that an unmarried aristocrat could desire in the way of comfort and elegance."<sup>171</sup>

From the declaration of war by Austria to the battle of Leipzig, Gentz's sympathies are on the side of the allies. This not only his official position demanded, but the general situation as well; Napoleon had not shown himself reasonable at Prague and it was, therefore, necessary to bring him to his senses by further blows. The victory of Leipzig, he greets with enthusiasm.<sup>172</sup> After it, however, he wishes peace to be concluded, and the proposals of the allies to France in November, 1813, containing the offer of the Rhine and Alpine boundaries were quite in harmony with his views. As they were not seriously considered by Napoleon, nothing was left to do but to renew the war; the question was, however, with what intensity war should be waged, and what was to be its ultimate purpose. Gentz held the opinion that it was necessary to keep always in view a speedy conclusion of peace, and accordingly he fairly overwhelms Metternich with urgent requests to seize every opportunity in this direction; above all, he wishes him to paralyse the evil influence of Blücher and other "madmen."<sup>173</sup> Anything but "war of annihilation," he

<sup>171</sup>*Ibid.*, I, 271.

<sup>172</sup>Metternich-Klinkowström, *Österreichs Theilnahme an den Befreiungskriegen*, 89 f., 92.

<sup>173</sup>*Ibid.*, 220, 233 ff., 238 ff., 247, 267 f., 274, 283, 316, 325 ff.

exclaims, anything but an overthrow of Napoleon and a restoration of the Bourbons, for all that would only tend to strengthen the position of the non-Austrian members of the Coalition!<sup>174</sup> Metternich would do best to establish direct relations with Napoleon and discuss with him alone the foundations of future peace.<sup>175</sup>

The best insight into Gentz's views and feelings at this time may be gained from a memorial of February, 1814, and two letters of November, 1813, resp. March, 1814, all of which were directed to Metternich.<sup>176</sup>

The first of these letters has reference to the impending territorial rearrangement of Europe but throws, at the same time, a strange light on the state of mind into which Gentz gradually had come. Austria and Russia, he now proposes, are first to arrive at an understanding as to the future territorial extension of the European powers in general, and of Germany in particular, and secretly to obtain England's approval of these arrangements. Then Prussia, Bavaria, Sweden, the petty states of Europe and England as well are formally to be "invited" to join the two afore mentioned powers, which they can hardly refuse to do. When this is attained, Russia will withdraw from further negotiations. Austria and Prussia, however, will conclude alliances with one another, and also each with the remaining German states, which will form the back-bone of the new German federation; these alliances are later to be confirmed by all the non-German powers. The number of states in the new German union is not to be more than sixteen. "In this way, therefore," Gentz concludes, "the great question, as a matter of fact, would be settled by Austria alone with the assistance of Russia and England, . . . but in the eyes of the world everything would be so handled and ordered as though Austria and Prussia had completed the task in common. This outward appearance is as necessary to present and future peace and quiet as

<sup>174</sup>*Ibid.*, 270 f., 210.

<sup>175</sup>*Ibid.*, 293.

<sup>176</sup>*Ibid.*, 98-103, 248-262, 280.

is the actual exclusion of Prussia, Sweden, Bavaria, and all the other powers of secondary rank from every decision of importance." To this Gentz adds the remark that Austria's position in the future German federation would have to be that of the *primus inter pares*.

The memorial deals with the question of Napoleon's removal. Gentz does not deny a general right of intervention of the powers in France, but he denies most decidedly that this right should extend to the dethroning of a legitimate sovereign, and as such he now regards Napoleon. Whether the latter, he declares, attained his power in an unjust manner cannot be so quickly determined, at any rate he has long ago ceased to be, so far as the French people are concerned, an usurper; besides, he has been recognized as sovereign by all European powers save England, and a recognition of this kind cannot simply be annulled. If it were planned to leave it to the French people to decide whether Napoleon should continue to be their sovereign, this would be, after all, nothing but a recognition of popular sovereignty. The Bourbons have no further claim to the French throne; their restoration is to the advantage of Russia and England alone, and is, therefore, urged by these two powers. There may perhaps be some doubt as to whether Austria would be able to prevent the return of the Bourbons; but if the allied armies shall once have reached Paris, this will certainly no longer be possible.

From the second letter referred to above, the following passage may be quoted: "My policy becomes daily more egotistic and downright Austrian. The word Europe has become a horror to me. A common revenge is no longer to be thought of. The greatest desire I have is to see the Coalition buried at once. Then I should wish that we were grown so great and so strong that everyone would have to tremble before us and to court our favor; I would not hasten into new alliances; only Bavaria, Wurtemberg and those who are to rule in Lombardy and Piedmont, and if possible Switzerland, would I unite with us; what is to

become of Russia, Prussia, France and England, so far as we are concerned, the next years will have to decide. I put no trust in any of these powers, and give none of them credit for good intentions toward us. Furthermore, I would not yield to Russia a single farm in Galicia, and would do my utmost to take Warsaw from her."

Gentz's attitude has, then, by this time become decidedly distrustful of the allies and almost friendly to Napoleon. If we wish to understand it, we shall have to trace it back to its motives.

One of these motives and perhaps the strongest one, was Gentz's old anxiety about the balance of power. He strove, as we know, in the last analysis, for a European federal system, and considered such a system without this balance of power as absolutely inconceivable; the latter, however, he believed to be threatened or even eliminated since the beginning of the century by France and Russia. France was now weakened, and in the future it might be further weakened; Russia, therefore, was left, and Russia alone, as the European peril, the same Russia that had been and would be Austria's particular rival in Poland and the Balkan peninsula. Was France, then, to be so completely conquered that Russian supremacy must become unavoidable? Would that not but mean giving up one master for another? And even in case Russia were not able to get for herself the leadership of Europe, her position would, nevertheless, be extremely dangerous to certain other powers; for who could guarantee that Russia might not all at once extend her hand to France? Everything must, therefore, be avoided which might strengthen this colossus, and the restoration of the Bourbons be prohibited; for if accomplished this restoration would essentially help toward a Russian-French *rapprochement*.<sup>177</sup> Prussia he thinks, has the same dangers to fear from a return of the Bourbons; unfortunately, however, the Prussian cabinet is well-nigh powerless against the radical demands of

<sup>177</sup>Metternich-Klinkowström, *Österreichs Theilnahme an den Befreiungskriegen*, 257 f., 287 f.



certain elements, first of all against those of the army.<sup>178</sup> As to England, he is afraid that in the new Europe the old leaning of the British cabinet toward Russia might become a source of great inconvenience to the balance of power and, therefore, especially to Austria; besides, England too is interested in the return of the Bourbons.<sup>179</sup> Taking into account all these considerations, it must be granted that Gentz was right, from his standpoint, in changing his political tactics after the victory of Leipzig. Other circumstances demanded other means. The powers, as he was convinced, were pursuing a policy of self-interest; Austria was, therefore, compelled to do the same, for only in this way could she still hope to get her rights.

So far, then, Gentz maintained his old position. He soon leaves it, however, in so far as he loses all sense of moderation in championing these new diplomatic tactics. His desire to spare France and not allow Russia to gain in strength was logical and comprehensible; his plans looking toward new conditions in Germany, on the other hand, are entirely incompatible with a system whose fundamental idea was the equality of the powers and a common regulation of all European questions. They must be explained differently, and their proper explanation is to be found in a somewhat new element in Gentz's nature: his new Austrian patriotism. In this, therefore, we are to see the second cause of his attitude in 1814. Originally a cosmopolitan with certain pan-German tendencies, Gentz had gradually yielded to the influence of his Viennese environments and his hatred of Russia, to arrive finally at a solid *Österreichertum*, with which was doubtless mingled what Bismarck once termed "*Ressortpatriotismus*"; it began to manifest itself in him even before 1813, and after Leipzig it reached its full vigor.<sup>180</sup>

In comparison with these motives, others are hardly worthy of consideration, as for instance Gentz's personal

<sup>178</sup>*Ibid.*, 257.

<sup>179</sup>*Ibid.*, 238, 258, 287 f.

<sup>180</sup>*Ibid.*, 248, 271, 280.

relations to Metternich. As far as the material which is available permits of conclusions, it must be acknowledged that Gentz always speaks of his chief's policy only in the most respectful terms; he does not, however, hesitate to offer substantial criticism. The relations between the two men were, at least until 1815, far less those of dependence of one upon the other than those of two sovereign powers, except for the fact that every decision naturally rested with Metternich. Gentz has been termed, at times, Metternich's clerk, and again his prompter; but in reality he was neither the one nor the other. Metternich until then never seems to have taken him into his innermost confidence, and Gentz himself often mildly complains about this attitude.<sup>181</sup>

While Gentz was thus protesting against the continuation of the war, the allies gradually pressed on toward Paris and there forced Napoleon to abdicate. With this the war against the latter was temporarily ended.

The tremendous task of European reorganization which was now to be undertaken fell to the Congress of Vienna. As its secretary, and as Metternich's assistant, Gentz was initiated into many of the secrets as well as frivolities of these nine months and he felt, there, quite in his element. To attempt to describe his activity in detail, however, would take us too far; he himself says but little about it, for the hundred pages of his diary dealing with the time from July, 1814, to May, 1815, give scarcely more than some insight into the social life of the congress. Suffice it to say, therefore, that in general he adhered to his ideas of 1814. In the beginning of 1815 he worked out a *Projet de Déclaration*, which has great similarity to the treaty of the Holy Alliance of September 16, 1815, if this be stripped of its specific religious character.<sup>182</sup> According to Gentz's own statement, this project was read to the Czar by Castlereagh toward the end of the congress, and the latter was moved to tears by it; it is, therefore, not

<sup>181</sup>*Ibid.*, 119 f., 127 f., 350.

<sup>182</sup>*Tagebücher*, I, 443 ff.

impossible that the declaration had a certain influence upon the conclusion of the Holy Alliance itself.

When Napoleon had returned from Elba, Gentz was entrusted with the drafting of a proscription against him.<sup>183</sup> Then war broke out anew; but before Europe had recovered its breath, the news of Waterloo and of the complete destruction of the imperial army arrived. Gentz seems to have taken a relatively small interest in the war, except that he was fearful of a further shifting of the balance of power in favor of Russia and Prussia. The news of Napoleon's escape from Elba came to him on March 7 through W. von Humboldt.<sup>184</sup> His sympathies were plainly divided, even inclining perhaps to Napoleon; he would have preferred to see the threatened renewal of the European conflict nipped in the bud and this with the least possible sensation. After Waterloo his fears got the upper hand; he praises Napoleon's attitude in the battle, of which Adam Müller had given him an inspiring description,<sup>185</sup> he criticises Blücher's and Wellington's march to Paris and protests against the restoration of the Bourbons.<sup>186</sup> He would gladly have seen a regency under Marie Louise, but finally does not oppose the recognition of Louis XVIII.<sup>187</sup> Called to Paris, he took part in the conclusion of peace, again guided by the desire to preserve as far as possible the integrity of France.

A half year later Gentz made public the motives which had actuated him during the peace negotiations and defended them against the angry Görres.<sup>188</sup> He is of the opinion that the principle of the European balance of power no longer demanded any additional weakening of France's position, as would result, for instance, from a

<sup>183</sup>*Ibid.*, I, 364.

<sup>184</sup>*Ibid.*, I, 363.

<sup>185</sup>*Briefw. zw. Fr. Gentz u. A. H. Müller*, 180 ff.

<sup>186</sup>Metternich-Klinkowström, *Österreichs Theilnahme an den Befreiungskriegen*, 664 f.

<sup>187</sup>*Ibid.*, 666 f. *Briefw. zw. Fr. Gentz u. A. H. Müller*, 203.

<sup>188</sup>Schlesier, II, 403.

forced concession of Alsace and Lorraine. The interests of an enduring European peace seem to him even to forbid such a step; for, he declares, if this step were to be taken, every king of France would, under the pressure of public opinion, seize the first opportunity of winning back what had been lost. This argument had, no doubt, much in its favor, for after 1870 France indeed followed the very policy that Gentz here foretells. On the other hand, there were important considerations against it, and these Gentz seems entirely to have overlooked: if France were allowed to keep Alsace and Lorraine, there would be no guarantee that the very possession of these provinces might not invite the French to make an attempt at winning the entire left bank of the Rhine. The whole question was, at that time, in a certain sense still an academic one, and not until the latter part of the nineteenth century was it made evident that here both men, Gentz as well as Görres, were equally in the right and equally in the wrong. It is, however, not impossible that in Gentz's case still other unexpressed motives may have been at work, as for instance those which aimed at bringing Austria in time into the good graces of the Bourbons.



Europe's struggle against its foremost man was now definitely ended. Napoleon himself sailed to St. Helena accompanied by a small suite, and there six years later he ended his unique life. The white banner of the Bourbons was floating once more from the Tuileries, for the king had again taken up his residence in the midst of his good people. Finally, the armies of the allies marched back to their garrisons and their homes. There was peace, at last, in all the lands, that sweet peace which so long had been hoped for. At spinning-parties, over their glasses, or at home by the warm fireside, however, people were telling for more than a generation of the strange hosts which, during the long years of war, had passed through the country; most of all, it is true, they told of him whose iron hand had been lying on Europe during these fifteen terrible and ever memorable years.

For Gentz too the struggle against his great enemy was now over, a struggle that, in its final stage, had hardly deserved this term. It never occurred to him to mourn his fate, and he passes over with indifference or scorn lamentations such as those of Las Cases, Montholon and Gourgaud. The era of Bonaparte, at last, belonged to the past and might so continue; now more important things were to be considered than the fate of the "ex-hero of the age." "You must know," Gentz writes in 1824, "that Bonaparte is as good as forgotten among us, and in Germany only a few curse or praise him, . . . and they too not from conviction but from sheer malignity."<sup>189</sup>

The end of all struggle, however, had not yet come to Gentz. Although the great storm had subsided and a second Napoleon was not likely to appear in the immediate future, the revolutionary spirit had not been extinguished

<sup>189</sup>*Briefe v. u. a. Fr. v. Gentz*, II, 340 f.

entirely and soon Gentz thought that he heard the roll of thunder once more. Again he rushed into battle, but this time the struggle was to end differently. Europe had, after all, progressed during the last thirty years, and Gentz himself realized in time that "neither art nor force can stop the turn of the world-wheel"; so he became more and more depressed, especially after 1825, without, however, losing interest in life entirely. In 1831 he sums up the result of this second struggle against the revolutionary tendencies in the words: "I find myself . . . suffering from an actual mentally diseased condition which is making noticeable progress in me. The chief features of this condition are continually recurring unrest and deep sorrow at the shaping of conditions which are driving us more and more to the wall,—the bitter consciousness that I can do nothing against it, that I am daily becoming more estranged from the new order of things, that my rôle is played and the fruit of forty years of labor as good as lost,—multiplied troubles, irreparable losses in my income brought on by political catastrophes,—my place in society which for some years I have too greatly cultivated and from which, now that I am tired of it since it disturbs me in the only pleasure I still have, I do not know how to free myself,—discontent with myself and with the world,—the feeling of increasing age and the fear of death which you, of course, know; are these not enough to make one sick?"<sup>190</sup>

Soon after this confession Gentz died, a weary and embittered man. For some time he seemed forgotten; then, however, he slowly rose once more out of this night of oblivion, and it is safe to say that his name will continue to be remembered. A historic figure of the first rank, it is true, he never was; one may even hesitate to give him second rank, since the influence which he exercised on the course of events has, after all, been but a small one. Judged by the whole make-up of his nature, however, he undoubtedly deserves to be called a very remarkable personage.

<sup>190</sup>Schlesier, I, 216 f.

His life extended over three distinct historic periods: those of the Revolution, of Napoleon and of the Reaction, and in all of them he had, fundamentally, one and the same aim: to fight against whatever was revolutionary and aggressive; but if we should attempt to find for him a place in history which would be his own more than any other, it could only be that of an opponent of the first Napoleon. Comparable to a brilliant comet the name of this extraordinary man stands on the firmament of historical fame, sending forth its lustre from age to age. There is the sparkling head: that is he himself, the little Caporal, the tamer of the Revolution, the Emperor; behind it, however, there follows an immense tail of duller light: the companions and enemies of the great conqueror, and with these, with the group of anti-Napoleonic *idéologues* Gentz must, more than with any other group or period, historically be classed.

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## INDEX

- Addington, 97, 104.  
 Alexander, czar of Russia, 62, 96, 98, 108, 109, 111, 121, 129, 137, 143, 151.  
 Ancillon, 11, 60, 61.  
 Armfeldt, 91, 98, 102, 106.  
 Austerlitz, 96, 122.  
  
 Bautzen, 138, 140.  
 Blücher, 146, 152.  
 Bourbons, 147ff., 152.  
 Brandes, 55, 56, 58.  
 Brinckmann, 28, 61, 98, 103, 104, 112, 136.  
 Buddberg, 129.  
 Burke, 38f., 51, 58f, 62, 64f.  
  
 Canning, 129.  
 Caradja, 145.  
 Charles, archduke of Austria, 106, 110, 112.  
 Cicero, 31, 32ff., 36, 50ff., 57, 59.  
 Cobenzl, 24, 65, 89f., 91, 97, 99, 102 105ff., 112, 115, 117, 121, 122, 126, 140.  
 Collenbach 106, 111, 122, 126.  
 Colloredo, 106, 121.  
 Czartorisky, 111.  
  
 Dresden, 122, 123, 124, 130, 136.  
 Duka, 106, 110.  
  
 Fassbender, 89, 102, 106, 111.  
 Francis, emperor of Austria, 62, 98, 106, 110, 117.  
 François, 74  
 Frederick the Great, 9, 13, 14, 94.  
 Frederick William II, king of Prussia, 14.  
 Frederick William III, king of Prussia, 120, 126.  
 Freiburg i.B., 145.  
  
 Garve, 31, 35, 36, 37, 51, 57, 59, 75.  
 Gentz  
     character, 22ff.;  
     correspondence, 62f., 75f., 98, 103, 104, 125ff., 132f.;  
     life, sketch of, 11.;  
     memorials, 63, 97f., 103f., 105, 112ff., 118, 128f., 135, 148;  
     place in history, 9f., 155f.;  
     political theories, 30ff.;  
     publications, 37, 61f., 77, 98, 127f., 135.



- Girtanner, 56, 58.  
 Görres, 30, 152f.  
 Goethe, 17, 18, 21, 98.  
 Götzen, 131, 132.  
 Gourgaud, 154.  
 Graun, 28, 29.  
 Grenville, 63.  
 Gross-Görschen, 139, 140.  
 Gustavus IV, king of Sweden, 98, 104, 116, 132.  
  
 Hardenberg, 98.  
 Harrowby, 105.  
 Haugwitz, 61, 98, 118, 121, 123, 126, 131f.  
 Herz, 57.  
 Holy Alliance, 151f.  
 Humboldt, W. von., 24, 60, 143, 152.  
  
 Ivernois, 62.  
  
 John, archduke of Austria, 30, 97, 98, 111, 112, 113, 117.  
  
 Kant, 11, 21, 23, 31, 41.  
 Kollowrat 106.  
  
 Las Cases, 154.  
 Leipzig, 92, 96, 138, 146.  
 Lombard, 126, 131f.  
 Louis XVI, 67.  
 Louis XVIII, 98, 116, 132, 152.  
 Louis Ferdinand, prince of Prussia, 60f., 98, 104, 129.  
 Louise, queen of Prussia, 98, 136.  
 Lucchesini, 61, 126, 131.  
  
 Mack, 102, 110, 119.  
 Makintosh, 61, 70.  
 Mallet du Pan, 21, 57f., 59, 61, 65f., 73, 74.  
 Marat, 68, 69.  
 Marie Louise, empress of the French, 134, 136, 152.  
 Meerveldt, 118.  
 Metternich, 9, 11, 29, 89, 97, 99, 100, 102, 108, 109, 112, 130, 134,  
     135, 137, 140, 141, 142, 143, 144, 145, 146ff., 151.  
 Mirabeau, 35, 57.  
 Montesquieu, 31, 35, 51.  
 Montholon, 154.  
 Mounier, 61.  
 Müller, Adam Heinrich, 24, 27, 40, 64, 87, 89, 121, 125.  
 Müller, Johannes von, 28, 92, 98, 99, 101, 103, 104, 105, 117ff.  
 Murawief, 108.

Nesselrode, 98, 139, 143.

Paget, 91, 102, 104, 105, 106, 111.

Panin, 61, 98, 102, 104, 106.

Peace of

Lunéville, 75;

Schönbrunn, 133, 136;

Paris (1815), 152.

Pitt, 62, 63, 105, 111, 112, 123.

Posselt, 56.

Pozzo di Borgo, 98, 102, 106.

Prague, 123, 130, 133, 137, 144f., 146.

Rahel, 25, 93, 98, 142, 144.

Rasumowsky, 91, 102, 106.

Ratiborzitz, 142ff.

Reichenbach, 142.

Robespierre, 35.

Rousseau, 31, 35, 51, 69.

Schiller, 17, 21, 98.

Schlegel, A. W., 26, 130.

Schlegel, Fr., 26, 98.

Schloezer, 21, 56.

Sieyès, 68, 69.

Stadion, 61, 89, 90f., 102, 109, 123, 124, 126, 134.

Staël, 98, 130.

Stein, 98, 130, 145.

Teplitz, 93, 123, 124f., 134, 137, 144.

Trauttmannsdorf, 112.

Trouvé, 74.

Ulm, 119.

War of

1805 119ff.;

1809 133;

1812 137;

1813-1814 137ff.;

1815 152.

Waterloo, 101, 102, 152.

Wessenberg, 139, 140.









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